

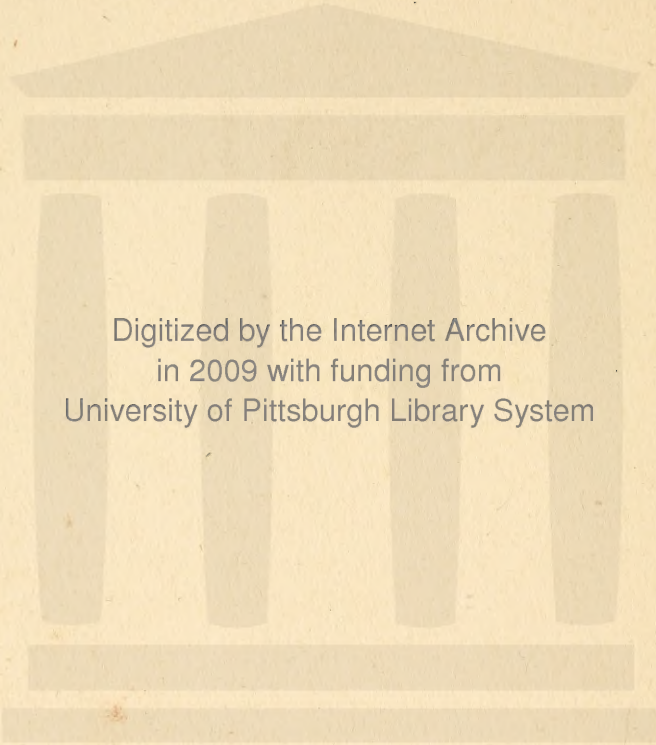
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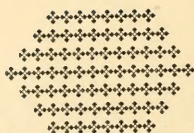
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PREFATORY NOTE

The notes and index have been prepared under the supervision of the Commission.



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2591—An act to empower the Board of Wardens, for the port of Philadelphia, to collect a certain duty on tonnage for the purposes therein mentioned, (April 1, 1805),	1020
2592—An act granting arrearages of State taxes yet due from York county to the directors of the poor, (April 1, 1805),	1023
2593—An act declaring part of Wyconisco creek, in the county of Dauphin, a public highway, (April 1, 1805),	1024
2594—An act for the relief of the supervisors of Waterford township, in the county of Erie, for the year one thousand eight hundred and two, (April 1, 1805),	1025
2595—A supplement to an act entitled, "An act to provide for the erecting of a house for the employment and support of the poor in the county of York," (April 1, 1805),	1026
2596—A further supplement to an act, entitled, "An act directing the descents of intestates real estate and distribution of their personal estates, and for other purposes therein mentioned," (April 1, 1805),	1027
2597—A supplement to an act, entitled, "An act for the consolidation and amendment of the laws as far as they respect the poor of the City of Philadelphia, the district of Southwark, and the township of the Northern Liberties," (April 1, 1805),	1028
2598—An act to repeal part of certain acts of the General Assembly for regulating the fisheries on Conestoga river, (April 1, 1805),	1030
2599—An act for the speedy redemption of certain certificates therein mentioned, (April 1, 1805),	1031
2600—An act to organize the provisional county of Venango, (April 1, 1805),	1032
2601—An act to enable the Governor to incorporate a company to make an artificial road from the Spring House tavern, in Montgomery county, through Strawnton, in Bucks county, to Bethlehem, in Northampton county, (April 4, 1805),	1034
2602—An act enjoining certain duties on the holders of land warrants not executed, and on the holders of unseated lands, (April 4, 1805),	1049
2603—An act declaring Wyalusing creek a public highway, (April 4, 1805),	1051
2604—An act to authorize the inhabitants of Cambria county to elect with the inhabitants of Somerset county, (April 4, 1805), ...	1051
2605—An act declaring parts of the branches of Pine creek, in the counties of Tioga and Potter, public highways, (April 4, 1805),	1052
2606—An act appropriating a sum of money for viewling and opening a road from the town of Somerset, in the county of Somerset, to Greensburg, in the county of Westmoreland, (April 4, 1805),	1052
2607—A further supplement to an act, entitled, "An act for the regulation of the Militia of the Commonwealth of Pennsylvania," (April 4, 1805),	1054
2608—An act granting to Thomas Price a lot of donation land, (April 4, 1805),	1063

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2609—An act to afford relief to the academy of Easton, in Northampton county, (April 4, 1805),	1064
2610—An act authorizing the appointment of commissioners to fix upon a proper site for the seat of justice in Clearfield county, (April 4, 1805),	1064
2611—An act concerning election districts, (April 4, 1805),	1065
2612—A supplement to the act, entitled "An act extending the benefits experienced from the institution of the Pennsylvania Hospital," (April 4, 1805),	1071
2613—An act authorizing the Governor to subscribe for a certain number of copies of a digest of the laws of this Commonwealth in the German language, (April 4, 1805),	1072
2614—A supplement to the act, entitled, "An act to raise and collect county rates and levies," (April 4, 1805),	1073
2615—An act making an appropriation for the building of a bridge in Somerset county, (April 4, 1805),	1074
2616—An act authorizing the holding of additional courts in Berks county, (April 4, 1805),	1074
2617—An act to encourage the patenting lands and for other purposes, (April 4, 1805),	1075
2618—An act concerning the reputed manor of Springetsbury, in the county of York, (April 4, 1805),	1077
2619—An act for the more effectual and speedy recovery of the debt due from the late John Nicholson to this Commonwealth, (April 4, 1805),	1078
2620—A supplement to an act, entitled, "An act to empower the trustees of Crawford county to erect a suitable building for a seminary of learning in the town of Meadville," (April 4, 1805),	1080
2621—A supplement to the act, entitled, "An act declaring Tuscarora creek a public highway," (April 4, 1805),	1081
2622—An act authorizing the Governor to appoint commissioners for the purpose of laying out a state road from Blair's Gap, in Huntingdon county, to the western boundary of this State, at or near the place where said boundary line crosses the Mahoning branch of Big Beaver creek, in Mercer county, (April 4, 1805),	1082
2623—An act making appropriations for the expenses of government and payment of certain debts, and for other purposes, (April 4, 1805),	1083
2624—A further supplement to the act, entitled, "An act for offering compensation to the Pennsylvania claimants of certain lands within the seventeen townships in the County of Luzerne, and for other purposes therein mentioned," (April 4, 1805),	1086



The Statutes at Large of Pennsylvania.

CHAPTER MMCCXIV.

AN ACT TO TAX THE OFFICE OF THE PROTHONOTARY OR CLERK OF THE SUPREME COURT.

(Section I P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the prothonotary or clerk of the supreme court shall, from and after the first day of April next ensuing the date of this act, keep, or cause to be kept, a fair and accurate account of all the fees received in his office; and shall, once in each and every year thereafter, furnish a copy thereof upon oath or affirmation, to the register and comptroller-general.

(Section II, P. L.) And be it further enacted by the authority aforesaid, That the register and comptroller-general shall proceed with the account so furnished by the prothonotary or clerk of the supreme court, in the following manner, that is to say: Of the amount of fees received by the said prothonotary or clerk during the space of one year, two thousand dollars shall be and remain clear of tax, and shall be deducted from the amount of fees so received during one year, and the remainder of the said account shall be taxed seventy-five per centum, which said taxes shall be charged to the said prothonotary or clerk, in the books of the comptroller and register-general; and the said prothonotary or clerk shall forthwith, upon

the settlement of his account as aforesaid, pay into the state treasury the amount of the said taxes: Provided always, that the arrears of fees which may be due to the said prothonotary or clerk, on the thirty-first day of March next ensuing the date hereof, and which may be paid after that day, are not intended to be included within the provisions of this act.

(Section III, P. L.) And be it further enacted by the authority aforesaid, That the register-general shall have the same powers to compel the said prothonotary or clerk to furnish his account for settlement, and the comptroller-general to compel the payment thereof as they have in other cases.

(Section IV, P. L.) And be it further enacted by the authority aforesaid, That so much of the act for the more speedy and effectual administration of justice, passed the twenty-fifth day of September, one thousand seven hundred and eighty-six,⁽¹⁾ as directs the prothonotary of the supreme court to pay into the state treasury the sum of one dollar upon every writ of *capias ad respondendum*, summons or other writ, shall cease, determine, and become void, on the first day of April next ensuing the date of this act: Provided always, that the arrears of the tax which may then be due under the said act, shall not be affected thereby.

Recorded L. B. No. 8, p. 16.

(¹). Chapter 1246; 12 Statutes at Large, p. 308.

THE HOUSE OF REPRESENTATIVES.

Monday, December 7th, 1801.

Mr. Thompson, the Secretary of the Commonwealth, being introduced, presented to the chair, a message from the Governor, which was read as follows, viz:

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PENNSYLVANIA.

Gentlemen: The bill, entitled "An Act to tax the office of prothonotary or clerk of the supreme court;" which was presented to me near the close of the last session, has not been sent back within three days after your present meeting, so

that it is now become a law. I have directed it to be returned to the house of representatives in which it originated.

This is intended as an additional evidence of the deference I pay to the opinion of the legislature, by preferring it to my own.

THOMAS M'KEAN.

Lancaster, December 5th, 1801.

Extract from the Journal,

MATTHEW HUSTON, C. H. R.

CHAPTER MMCCXV.

AN ACT FOR THE RELIEF OF EDMUND MILNE.

Whereas, Edmund Milne hath by his petition set forth that he paid to John Nicholson, then comptroller-general, the balance of a judgment obtained against him, which still continues a lien on his property and from which it cannot be relieved, unless an act be passed declaring the said judgment satisfied; and as by the receipt of the said comptroller, it appears that the money was paid by the said Edmund Milne.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the attorney-general cause satisfaction to be entered on record, in the suit instituted in the name of John Hazlewood in behalf of the commonwealth, against Edmund Milne and John Vandereen.

Approved December 19th, 1801. Recorded in L. B. No. 8, p. 17.

CHAPTER MMCCXVI.

AN ACT ALTERING THE MANNER OF ELECTING A TREASURER OF THE CORPORATION OF THE CITY OF PHILADELPHIA

(Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the au-

thority of the same, That so much of the fourth section of an act of assembly, passed on the eleventh day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ entitled "An act to supply certain defects in the acts incorporating the city of Philadelphia and sundry towns and boroughs within this commonwealth, and to explain and amend an act, entitled 'An act to alter and amend the several acts of the general assembly of this commonwealth incorporating the city of Philadelphia and for other purposes;'" as provides that the treasurer of the corporation of the city of Philadelphia shall be appointed as heretofore, be, and the same is hereby repealed.

(Section II, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the treasurer of the said corporation shall be appointed annually by the joint votes of the members of the select and common councils of the said city, in the same manner as the constitution of this commonwealth prescribes for the appointment of the state treasurer, and not otherwise, any law to the contrary notwithstanding.

Approved January 7, 1802. Recorded L. B. No. 8, p. 17.

Note (1). Chapter 2091, 16 Statutes at Large, p. 343.

CHAPTER MMCCXVII.

AN ACT FOR THE ESTABLISHMENT OF A COLLEGE AT CANONSBURG,
IN THE COUNTY OF WASHINGTON, IN THE COMMONWEALTH OF
PENNSYLVANIA.

(Section I.) Whereas the establishment of a college at Canonsburg, in the county of Washington, for the instruction of youth in the learned languages, in the arts and sciences, and in useful literature, would tend to diffuse information and promote the public good: Therefore,

(Section II.) Section II, P. L. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That there be erected, and hereby is erected and established in Canonsburg, in the county

of Washington, in this commonwealth, a college for the education of youth in the learned languages, the arts, sciences, and useful literature; the style, name and title of said college, and the constitution thereof shall be, and are hereby declared to be as is hereinafter mentioned and defined, that is to say: The said college shall be under the management, direction and government of a number of trustees, not exceeding twenty-one; and the first trustees of the said college shall consist of the following persons, to wit: Reverend John M'Millan, Joseph Patterson, Thomas Marquis, Samuel Ralston, John Black, James Powers, James Dunlap, and John M'Pharrin; James Edgar, John M'Dowell, James Allison, William Findley, Craig Ritchie, John Hamilton, Joseph Vance, Robert Mahon, James Kerr, and Aaron Lyle, esquires; Alexander Cooke, John Mercer, and William Hughes.

Section III. (Section II, P. L.) And be it further enacted by the authority aforesaid, that the said trustees and their successors, to be elected in the manner hereinafter mentioned, shall forever hereafter, be and they are hereby erected, established and declared, to be one body politic and corporate, with perpetual succession, in deed and in law, to all intents and purposes whatsoever, by the name, style and title of "The Trustees of Jefferson college, in Canonsburg, in the county of Washington," by which name and title, they the said trustees, and their successors, shall be competent and capable at law and in equity, to take to themselves and their successors, for the use of the said college, any estate in any messuages, lands, tenements, hereditaments, goods, chattels, moneys, or other effects, by the gift, grant, bargain, sale, conveyance, assurance, will, devise, or bequest of any person or persons whomsoever or wheresoever: Provided, that the same do not exceed in the whole the yearly value of six thousand dollars, and the same messuages, lands, tenements, hereditaments, and estate, real and personal, to grant, bargain, sell, convey, assure, demise and to farm let, and to place out on interest, or otherwise dispose of, for the benefit of the said college, in such manner as to them or a majority of them, shall seem most

beneficial for the institution; and to receive the rents, issues, profits, income and interest thereof, and to apply the same to the proper use and support of the said college; and by the same name, to sue, prosecute and defend, implead and be impleaded, in any court or courts of law or equity, and in all manner of suits or actions whatsoever, and generally, by and in the same name, to do and transact all and every the business touching or concerning the premises, as fully and effectually as any natural person, or body politic or corporate, within this commonwealth, may or can do; and to hold, enjoy and exercise, all such powers, authorities and jurisdictions, as are customary in other colleges in the United States of America.

Section IV. (Section III, P. L.) And be it further enacted by the authority aforesaid, That there shall be a meeting of the said trustees, at least once in every year, at the town of Canonsburg, at such time as the said trustees or a majority of them shall appoint, of which notice shall be given, either by public advertisements in one of the public newspapers of the town of Washington, in the county of Washington, four weeks before such meeting, or by notice in writing, signed by the clerk or other officer, whom the said trustees for that purpose may appoint, and to be left at the dwelling house of each trustee, at least ten days before the time of such intended meeting, and if at such meeting eleven of the said trustees shall not be present, those present shall have power to adjourn the meeting to any other day, as fully and effectually, to all intents and purposes, as if the whole number of trustees, for the time being, were present; but if eleven or more of the said trustees shall meet at the said appointed times, or at any other time of adjournment, then such number so met, shall be a board of quorum, and a majority of them shall be capable of doing and transacting all the business and concerns of the said college, not otherwise provided for by this act; and particularly of making and enacting ordinances, for the government of said college, of filling vacancies in the board of trustees occasioned by death, resignation or otherwise; of electing and appointing the principal and professors of the said college; of agreeing with them for their salaries and

stipends, and removing them for misconduct or breach of the laws of the institution; of appointing committees of their own body to carry into execution all and every the resolutions of the board; of appointing a treasurer, secretary, stewards, managers, and other necessary and customary officers for the taking care of the estate and managing the concerns of the corporation; and a majority of the board or quorum of the said trustees at any annual or adjourned meeting, after notice given as aforesaid, shall determine all matters and things, (although the same be not herein particularly mentioned) which shall occasionally arise, and be incidentally necessary to be determined and transacted by the said trustees: Provided always, that no ordinances shall be of force which shall be repugnant to the laws of the United States, or of this state.

Section V. (Section LV, P. L.) And be it further enacted by the authority aforesaid, That the head or chief master of the college shall be called and styled the principal of the college, and the masters thereof shall be called and styled professors; but neither principal nor professors, while they remain such, shall ever be capable of holding the office of trustee. The principal and professors, or a majority of them, shall be called and styled the faculty of the college, which faculty shall have the power of enforcing the rules and regulations adopted by the trustees for the government of the pupils, by rewarding or censuring them, and finally by suspending such of them, as after repeated admonitions, shall continue refractory, until the determination of a quorum of trustees can be had; and of granting and confirming, by and with the approbation and consent of a board of the trustees signified by their mandamus, such degrees in the liberal arts and sciences, to such pupils of the college, or others as by their proficiency in learning or meritorious conduct, they shall think entitled to them, as are usually granted and conferred in other colleges in the United States of America; and to grant to such graduates, diplomas or certificates, under their common seal, and signed by the faculty. All persons of every religious denomination shall be capable of being elected

trustees, nor shall any person either as principal, professor or pupil, be refused admittance, for his conscientious persuasion in matters of religion: Provided he shall demean himself in a sober, orderly manner, and conform to the rules and regulations of the college.

Section VI. (Section V, P. L.) And be it further and acted by the authority aforesaid, That whenever a vacancy shall happen, occasioned by disqualification, resignation or decease, of any clergyman, hereby appointed a trustee, such vacancy shall be filled by the choice of another clergyman of any christian denomination, and so as often as such vacancy shall happen, whereby the number of eight clergymen hereby appointed trustees, shall never be lessened nor augmented; nor shall any misnomer of the said corporation defeat or annul, any gift, grant, devise or bequest, to or for the use of the said corporation: Provided, the intent of the parties shall sufficiently appear upon the face of the gift, grant, will, or other writing, whereby any estate or interest was intended to pass to or from the said corporation; nor shall any disuser or nonuser of the rights, liberties, privileges, jurisdictions and authorities, hereby granted to the said corporation, or any of them, create or cause a forfeiture thereof; and the constitution of the said college, herein and hereby declared and established, shall be and remain the inviolable constitution of the said college forever, and the same shall not be altered, or alterable, by any ordinance or law of the said trustees, nor in any other manner than by an act of the legislature of the commonwealth.

Section VII. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall cause to be made for their use, one common seal, with such devices and inscriptions thereon, as they shall think proper, under and by which all deeds, diplomas, certificates and acts of the said corporation, shall pass and be authenticated, and the same seal, at their pleasure from time to time, change and alter. The business of the said corporation shall and may be transacted and performed, by the majority of a meeting, of at least eleven of the trustees appointed by this act, and their

successors duly elected, notified, called and convened as aforesaid, and not otherwise. If any trustee shall accept, or take any charge or office under the said trustees other than that of treasurer or secretary, his place shall thereby be vacated, and the trustees at their next meeting shall proceed to supply such vacancy by election.

Section VIII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, all the property belonging to Canonsburg academy,⁽¹⁾ of whatsoever nature the same may be, whether real, personal or mixed, which hath been given, conveyed, devised or bequeathed to the trustees, for the benefit and use of that institution, shall be vested, and hereby is vested, in the trustees of the college aforesaid, and their successors in office: Subject, always nevertheless, to the uses, trusts, ends and purposes, for which the same property was originally given, conveyed, devised or bequeathed.

Section IX. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the trustees hereinbefore appointed, and their successors, the principal and professors, and every of them, now appointed or hereafter to be appointed, in the manner and form hereinbefore directed and required, before they enter upon the duties of their offices, shall before some one judge of the court of common pleas, or before some justice of the peace of the county of Washington, take and subscribe the oath or affirmation as directed by the eighth article of the constitution of this commonwealth, and the act of congress of the United States, passed the first day of June, one thousand seven hundred and eighty-nine; and the trustees are hereby enjoined and required to provide and keep a book wherein their secretary shall well and truly record the certificates of the aforesaid qualifications.

Approved January 15, 1802. Recorded L. B. No. 8, p. 19.

Note ⁽¹⁾See Chapter 2133; 16 Statutes at Large, p. 469; "An act to grant a sum of money to the trustees of the Academy of Canonsburg in Washington county."

CHAPTER MMCCXVIII.

AN ACT TO ERECT PENN TOWNSHIP, IN THE COUNTY OF NORTHAMPTON, INTO A NEW ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the township of Penn, in the county of Northampton, shall be a separate election district, to be called Penn district; and the electors thereof shall hold their general elections at the house now occupied by George Simon Wehr, in said township.

Approved January 15, 1802. Recorded L. B. No. 8, p. 18.

CHAPTER MMCCXIX.

AN ACT TO ERECT A NEW ELECTION DISTRICT IN THE COUNTY OF SOMERSET.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, that from and after the passing of this act, the township of Southampton, in the county of Somerset, shall be an election district; and the electors thereof shall hold their general elections at the house now occupied by Andrew Emrick, in said township of Southampton.

Approved January 15, 1802. Recorded L. B. No. 8, p. 19.

CHAPTER MMCCXX.

AN ACT TO ERECT HALF MOON AND PATTON TOWNSHIPS, IN THE COUNTY OF CENTRE, INTO A NEW ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the townships of Half moon and Patton, in the county of Centre, shall be a separate election district; and the electors thereof shall hold their general elections at the house now occupied by Abraham Elder, in Half moon township.

Approved January 19, 1802. Recorded L. B. No. 8, p. 24.

CHAPTER MMCCXXI.

AN ACT FOR ERECTING TWO ELECTION DISTRICTS IN THE COUNTY OF MONTGOMERY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the townships of Limerick, Skippack and Perkiomen, and that part of Providence township which lies west of Skippack and Perkiomen creeks, shall be a separate election district, to be called the seventh district; and the electors thereof shall hold their general elections at the house now occupied by David Dewees, in the township of Providence aforesaid.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the townships of Upper Hanover, Marlborough, Upper Salford and Franconia, in the county aforesaid, shall be a separate election district, to be called the eighth district; and the electors thereof shall hold

their general elections at the house now occupied by John Scheid, in Summeny town, in Marlborough township aforesaid.

Approved January 19, 1802. Recorded L. B. No. 8, p. 23.

CHAPTER MMCCXXII.

A SUPPLEMENT TO THE ACT ENTITLED "AN ACT TO ERECT THE TOWN OF SUNBURY, IN THE COUNTY OF NORTHUMBERLAND, INTO A BOROUGH." (1)

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, similar rights, privileges and immunities, as are now exercised, holden and enjoyed, by the burgesses, freeholders and inhabitants of the borough of Reading, in and by the ninth section of the act establishing the said borough, shall and may from henceforth be exercised, holden and enjoyed by the burgesses, freeholders and inhabitants of the borough of Sunbury, in the county of Northumberland; and the yearly fairs in the said borough of Sunbury, shall commence on the Tuesday following the fairs holden in the borough of Reading.

Approved January 22, 1802. Recorded L. B. No. 8, p. 26.

Note (1) Chapter 1937; 15 Statutes at Large, p. 514. See also "A further supplement to the act entitled "An act to erect the town of Sunbury in the county of Northumberland into a borough" Chapter 2344, (16 March, 1803) Infra this volume p. 281.

CHAPTER MMCCXXIII.

A SUPPLEMENT TO THE ACT ENTITLED "AN ACT TO ERECT PART OF WASHINGTON COUNTY INTO A SEPARATE COUNTY."

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That from and after the passing of this act, the following alteration shall take place in the line between the counties of Washington and Greene, viz.: beginning at the present line, on the ridge that divides the waters of Tenmile and Whelen creeks, near Jacob Bobbett's; thence a straight line to the head waters of Hunter's fork, of Whelen creek; and thence down the same, to the mouth thereof, where it meets the present county line.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, so much of the county of Greene, which by this act is reunited to the county of Washington, as lies west of the road, called Ryerson's road, is hereby annexed to Findley township; and shall hereafter be a part of the district called Stevenson's election district; and that part thereof, which lies east of said road, is hereby annexed to Morris township, and shall hereafter be a part of the Washington election district, anything in any former law to the contrary in anywise notwithstanding.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the governor is hereby authorized and required to appoint two commissioners, to run and mark the aforesaid line, according to the directions of this act, who shall make report of their proceedings, under hand and seal, to the prothonotaries of the said counties of Washington and Greene, on or before the first day of June next, who shall file the same, in their respective offices; and the expense of running and marking the said alterations in the aforesaid line shall be paid, one half out of the treasury of the county of Washington, and the other half out of the treasury of the county of Greene.

Approved January 22, 1802. Recorded L. B. No. 8, p. 24.

Note (1) Chapter 1870; 15 Statutes at Large, p. 380.

CHAPTER MMCCXXIV.

AN ACT LIMITING THE OPERATION OF CAVEATS ENTERED IN THE LAND OFFICE OF THIS COMMONWEALTH AGAINST THE ISSUING OF PATENTS.

Whereas the provision heretofore made by law for allowing caveats to be entered in the land office of this commonwealth against the issuing of patents, has in many instances produced great inconvenience and embarrassment to warantees and purchasers, as well as delay in completing titles to lands, by suffering the said caveats to remain as a bar for an indefinite length of time without any process had thereon; Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That no caveat or note on survey, now on record or otherwise, either in the office of the secretary, or in the office of the surveyor-general of the land office for this commonwealth, shall continue to bar the issuing of a patent or patents to those, or their legal representatives, against whom such caveat may be entered, during a longer term than two years, from and after the passing of this act, unless the person or persons who has or have entered such caveat or note, or his, her or their legal representative or representatives, or others, holding or claiming the estate, shall within the said term of two years take out a citation and prosecute the same to effect.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That no caveat, note on survey, or writing in the nature of a caveat, hereafter to be entered in either of the offices of the land office of this commonwealth, shall continue to bar the issuing of a patent to the person or persons, or his, her or their legal representative or representatives, against whom such caveat may be entered, during a longer period than two years from the entry of such caveat,

in the land office aforesaid; unless the party or parties interested in the land, or his, her or their agent or agents, assignee or assignees, shall within the term aforesaid take out a citation thereon, in order to bring such dispute to a decision, and prosecute the same to effect.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the secretary of the land office to publish an abstract of this act in one or more of the public newspapers of Philadelphia, Lancaster, Harrisburg and Pittsburgh, for the period of six weeks, from and after the passing of this act.

Approved January 22, 1802. Recorded L. B. No. 8, p. 25.

CHAPTER MMCCXXV.

AN ACT TO REPEAL PART OF AN ACT ENTITLED "AN ACT TO PREVENT THE DESTRUCTION OF ROCK FISH AND OYSTERS." (*)

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That so much of the act entitled "An act to prevent the destruction of rock fish and oysters," passed the ninth day of March, in the year of our Lord one thousand seven hundred and seventy-one,⁽¹⁾ as relates to the offering for sale any rock fish under a certain described size therein mentioned, be, and the same is hereby repealed.

Approved January 26, 1802. Recorded L. B. No. 8, p. 28.

Note (*) Chapter 620; 8 Statutes at Large, p. 10 and note. See also Acts of Assembly passed May 4, 1871, P. L. 250; April 10, 1873, P. L. 69; May 2, 1879, P. L. 46; June 2, 1891, P. L. 169; May 29, 1901, P. L. 302.

CHAPTER MMCCXXVI.

AN ACT TO EXTEND THE TIME FOR PATENTING LANDS, AND FOR
OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the act entitled "An act to extend the time for patenting lands," passed the twenty-first day of March, Anno Domini one thousand seven hundred and ninety-two,⁽¹⁾ and all matters and things therein contained, shall be, and the same are hereby further extended to the first day of January, in the year of our Lord one thousand eight hundred and four, and from thence to the end of the next session of the general assembly.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the time limited by the tenth section of the act entitled "An act for the sale of the vacant lands within this commonwealth," passed the third day of April, one thousand seven hundred and ninety-two,⁽²⁾ for actual settlers under the said act to make application for warrants, be, and the same is hereby extended to the third day of April, Anno Domini one thousand eight hundred and five, and from thence to the end of the next session of the general assembly, and no longer.

Approved January 26, 1802. Recorded L. B. No. 8, p. 27.

Note (1) Chapter 1609; 14 Statutes at Large, p. 205. See also Acts of Assembly passed April 3, 1794, Chapter 1723, 15 Statutes at Large, p. 22; April 1, 1796, Chapter 1894, 15 Statutes at Large, p. 430; April 4, 1798, Chapter 1996, 16 Statutes at Large, p. 94 March 15, 1800, Chapter 2137, 16 Statutes at Large, p. 473.

Note (2) Chapter 1624, 14 Statutes at Large, p. 232

CHAPTER MMCCXXVII.

AN ACT TO ALTER AND AMEND THE HEALTH LAWS OF THIS STATE,
SO FAR AS RESPECTS VESSELS, GOODS AND PASSENGERS, COMING
FROM ANY PORT OR PLACE IN THE STATE OF DELAWARE.

Whereas the proviso contained in the fourth section of an act of the general assembly of this commonwealth, passed the nineteenth day of February, in the year of our Lord one thousand eight hundred and one, entitled "An act to incorporate a company for the purpose of cutting and making a canal between the river Delaware and the Chesapeake bay, and to authorize the clearing of obstructions in the river Susquehanna, down to the Maryland line, and for other purposes therein mentioned,"⁽¹⁾ has been deemed by some of the citizens of the state of Delaware susceptible of a construction injurious to their interests, and it is the wish of the legislature of this commonwealth to remove every reasonable cause of complaint on the part of the citizens of a sister state: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the proviso contained in the fourth section of the act entitled "An act to incorporate a company for the purpose of cutting and making a canal between the river Delaware and the Chesapeake bay, and to authorize the clearing of obstructions in the river Susquehanna, down to the Maryland line, and for other purposes therein mentioned,"⁽¹⁾ and every matter and thing therein contained, be, and the same is hereby repealed: And that in future, such vessels and crews, goods and passengers, with their beds, bedding and apparel, as shall appear by the certificate of the board of health, or health officer, or (where there is no board of health or health officer) by that of any regular physician, and three justices of the peace, at any part or district in the state of Delaware (reciting the quantity and quality, and if any, the marks and numbers of such goods, beds, bed-

ding and apparel, and the names of the crew and passengers) to have been landed at least fifteen days within the said state or district, and the said crew and passengers to be in healthy state; and the said goods, beds, bedding and apparel to be well aired and purified, and to the best of their knowledge and belief, to be free from contagion and infection; shall upon due examination of such certificate, by the resident physician or other proper officer at the lazaretto of the port of Philadelphia, be permitted to proceed to Philadelphia, or the port or place of their destination, in the same manner as if the said landing, airing and purification had taken place at the said lazaretto: Provided, that nothing hereinbefore contained shall prevent the proper officers at the lazaretto aforesaid, in cases where after any bill of health as aforesaid has been granted at any port or place in the state of Delaware, any infectious or contagious disease shall exist or be suspected to exist on board any such vessel, from directing such further quarantine or detention, cleansing, airing and purification, as in the judgment of the said officers and board of health shall be requisite and necessary for the preservation of the people of the city and port of Philadelphia, from pestilential and contagious diseases.

Approved January 27, 1802. Recorded L. B. No. 8, p. 28.
Note (*)Chapter 2186; 16 Statutes at Large, p. 549.

CHAPTER MMCCXXVIII.

AN ACT FOR THE RELIEF OF PETER WILLIAMS.

Whereas it appears by the petition of Peter Williams, formerly a drummer in the third Pennsylvania regiment, that he has lost a certificate, number four hundred and seventy-one, for the sum of eighty-eight pounds one shilling and nine pence, granted him for the depreciation of his pay, and on which one year's interest hath been paid: And whereas it also appears by information from the comptroller-general, that the said certificate hath not been redeemed by this Commonwealth. Therefore:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be, and he is hereby authorized to draw his warrant upon the state treasurer, in favor of Peter Williams, for the sum of eighty-eight pounds one shilling and nine pence, together with lawful interest on the said sum from the first day of July, one thousand seven hundred and eighty-four, until the first day of August, one thousand seven hundred and ninety-two.

Approved February 2, 1802. Recorded L. B. No. 8, p. 30.

CHAPTER MMCCXXIX.

AN ACT FURTHER TO ENCOURAGE THE KILLING OF WOLVES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, any person or persons who shall kill any wolf or wolves within the bounds of any county within this commonwealth, and who shall produce the head or heads thereof before any justice of the peace in and for any county as aforesaid, it shall be the duty of such justice to examine such person or persons, on oath or affirmation, touching the time when, and place where such wolf or wolves was or were caught and killed; and if the place of such catching and killing shall be found to be within the bounds of the county in which such justice has jurisdiction, and if the wolf be full grown, it then shall be the duty of such justice, after destroying such head or heads, to give such person or persons a certificate thereof, and to sign an order for eight dollars, on the treasurer of the county in which it shall have appeared such wolf or wolves was or were caught and killed, for each and every head produced as beforementioned; and for every wolf-puppy that shall be produced and destroyed as before mentioned, he shall sign

an order on the treasurer aforesaid for the sum of two dollars and fifty cents: and it shall be the duty of such treasurer, and he is hereby directed to pay the amount of the said order, out of the money in the treasury appropriated for county purposes.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That so much of the act entitled "An act more effectually to encourage the killing of wolves," passed the thirteenth of April, one thousand seven hundred and eighty-two,¹ as is hereby altered or amended, is hereby repealed.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That this act shall be and continue in force for three years, and from thence to the end of the next session of the general assembly.

Approved February 2, 1802. Recorded L. B. No. 8, p. 30.

Note (1) Chapter 972, 10 Statutes at Large, p. 460.

CHAPTER MMCCXXX.

AN ACT TO AUTHORIZE THE SALE OF THE ESTATE OF CATHARINE ERRINGER, A LUNATIC, AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas, it appears by an inquisition taken at the almshouse, in the county of Philadelphia, on the twenty-first day of September, one thousand seven hundred and ninety-five, by virtue of a commission of lunacy, under the seal of the court of common pleas, for the said county, that Catharine Erringer was, at the time of taking said inquisition, a lunatic: And whereas, it has been represented to the legislature, by the petition of Frederick Erringer, of the city of Philadelphia, and of the guardians of the poor in the said city, that the said Catharine Erringer, sister of the said Frederick, for several years last past, hath been, and still is, a charge to the said city and liberties; and that she is seized in fee, of one undivided sixth part of a certain three story brick house, and lot or piece of ground thereto belonging, situate on the east side of Delaware Third street, continued a little to the north-

ward of Callowhill street, in the Northern Liberties of the said city; late the estate of her father, Jacob Erringer, deceased, which property the petitioners conceive ought to be applied to her support; but inasmuch as the said Catharine is a lunatic, and incapable of disposing of the same, the said petitioners have prayed that the legislature would be pleased to authorize the sale of the share of the said Catharine, in the premises, and that the monies arising therefrom, may be applied towards her support. Therefore:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Peter Browne, of the township of the Northern Liberties, in the county of Philadelphia, esquire, be, and he is hereby authorized and empowered to sell and convey the share and estate of the said Catharine Erringer, of and in the said house and lot or piece of ground, to such person or persons, for such price or prices, and on such terms and conditions as he may deem most advantageous to the parties concerned; and that the conveyance to be made by him shall be as good and effectual in law, to all intents and purposes, as if the said Catharine Erringer was of sound mind, and a party to the said conveyance; but shall have no greater or other force or effect whatsoever.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the monies arising from such sale, shall be applied to the maintenance and support of the said Catharine Erringer, and that the same shall be duly paid over to the guardians of the poor, in the city of Philadelphia, for the purposes aforesaid.

Approved February 2, 1802. Recorded in L. B. No. 8, p. 31.

CHAPTER MMCCXXXI.

AN ACT TO DIRECT THE MANNER, TIME AND PLACES OF HOLDING ELECTIONS FOR ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.

Whereas, the constitution of the United States directs, that for the purpose of choosing a president and vice-president of the United States, "Each state shall appoint in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress." Therefore:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That an election shall be held in the city of Philadelphia and the several counties of this commonwealth, by the citizens qualified to vote for members of the general assembly, at the same places at which the said members shall have been voted for at the last preceding election, on the fifth Friday preceding the first Wednesday in December, which will be in the year one thousand eight hundred and four, and on the fifth Friday preceding the first Wednesday in December in every fourth year thereafter, for the purpose of electing electors of a president and vice-president of the United States; of which elections due notice shall be given by the sheriffs of the respective counties; and the several judges, inspectors and clerks, who shall have attended at the last election for members of the general assembly, shall attend and perform, at the said election of electors, the like duties, and be subject to the like penalties for neglect or misconduct, as they are or shall be liable to, at the election of members of the general assembly.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That at every such election, every citizen qualified as aforesaid shall be entitled to vote by de-

livering to the proper officer, a written or printed ticket or ballot, containing the names of a number of persons, equal to the whole number of senators and representatives to which this state may be entitled in the congress of the United States; and the same proceeding shall be had with the said tickets, as is or shall be by law directed at the election of members of the general assembly, and as soon as all the votes shall have been read off and counted, the judges of each district shall make out a certificate signed by the said judges, or a majority of them, of the number of votes which have been given for each candidate, which numbers shall be expressed in words at length, and one of the said judges shall take charge of said certificate, and on the Monday next after said election shall have been holden, produce the same in a meeting of one judge from each district within the said county, at the court house, and for the city and county of Philadelphia at the state house, for which service each judge shall be allowed ten cents for every mile he shall have travelled in performing the same, and the judges of the several districts of the said county, so met, shall add together the number of votes which shall appear to have been given for each candidates, and make out triplicate returns on paper or parchment, signed by the said judges, or a majority of them, containing the names of the persons voted for, and the number of votes given for each expressed in words at length; two of which returns shall be delivered forthwith, by one of the said judges, to the prothonotary of the proper county, who shall file one of them in his office, and within two days after he shall have received the said returns, deposit one of them in the nearest post office, to be forwarded to the office of the secretary of the commonwealth, to be there filed; and the third return shall be forthwith delivered by one of the judges to the sheriff of the proper county, endorsing thereon the time of delivering the same, who shall by himself or his deputy deliver the same to the governor within fourteen days after the election shall have been holden; and the said prothonotary and sheriff shall receive for transmitting, depositing and delivering the said returns to the post office and the governor

as aforesaid, the same compensation as is allowed for similar services by the act, entitled "An act to regulate the general elections within this commonwealth," passed the fifteenth day of February, one thousand seven hundred and ninety-nine;¹ and the prothonotaries and sheriffs respectively shall be subject to like penalties for neglect or misconduct, as are prescribed in similar cases by the said recited act; and the governor shall enumerate and ascertain the number of votes given for each and every person so as aforesaid voted for, and shall thereupon declare by proclamation, the names of the persons duly elected and chosen, and shall cause a notification of their election to be delivered to the person so chosen, on or before the last Wednesday in the month of November next after such election.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the electors who shall be chosen as aforesaid, shall at twelve o'clock on the day which is or may be directed by the congress of the United States, meet at the seat of government of this state, and shall then and there perform the duties enjoined upon them by the constitution and laws of the United States.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That each of the said electors shall, before the hour of nine o'clock A. M. on the day next preceding the day of election of president and vice-president of the United States, give notice to the governor, that he is at the seat of government and ready to perform the duties of an elector, and it shall be the duty of the governor, on the day of the meeting of the said electors, between the hours of nine and ten o'clock, A. M., to inform the legislature (if in session) who of the electors are at the seat of government, and if by that information it shall appear that any one or more of the electors be absent from the seat of government, the legislature shall forthwith proceed to choose by a joint vote, a person or persons to fill up such vacancies as may have occurred by the non-attendance of one or more of the electors, and immediately after such choice shall have been made by the legislature, the name or names of the person or persons so

chosen shall be transmitted to the governor, whose duty it shall be forthwith to cause a notification of his or their election to be delivered in writing to each and every of the electors last chosen as aforesaid; and the said person or persons so notified, and not the person or persons in whose places he or they shall be chosen as aforesaid, shall be electors, and shall meet on the same day, together with the other electors, and perform the duties enjoined on them by the constitution and laws of the United States.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That in case of any election of a president and vice-president of the United States, at any other periods than those hereinbefore specified, the same shall in all respects be held, conducted and concluded, as is provided by this act, in the case of an election held at the ordinary period prescribed by the constitution and laws of the United States for holding the same.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That each of the said electors shall receive three dollars daily wages, when traveling to, remaining at, and returning from the place of meeting aforesaid, the same to be paid by the treasurer of the state, on a warrant or warrants signed by the president of the meeting of the said electors, if any they shall choose, or by a majority of such electors, exclusive of persons in whose favor the warrant is drawn.

Approved February 2, 1802. Recorded L. B. No. 8, p. 33.
Note (*) Chapter 2020, 16 Statutes at Large, p. 163.

CHAPTER MMCCXXXII.

AN ACT DECLARING THE HOLDING OF OFFICES OR APPOINTMENTS UNDER THIS STATE INCOMPATIBLE WITH THE HOLDING OR EXERCISING OFFICES OR APPOINTMENTS UNDER THE UNITED STATES.

Whereas, the eighth section of the second article of the constitution of this commonwealth provides that no person holding or exercising any office of profit or trust under the United

States, shall at the same time hold or exercise any office in this state, which the legislature thereof shall declare incompatible with offices or appointments under the United States. Therefore:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That every person who shall hold any office or appointment of profit or trust under the government of the United States, whether a commissioned officer or otherwise, a subordinate officer or agent, who is or shall be employed under the legislative, executive or judiciary departments of the United States, and also every member of congress, is hereby declared to be incapable of holding or exercising at the same time, the office or appointment of justice of the peace, mayor, recorder, burgess or alderman of any city, corporate town or borough, resident physician of the lazaretto, constable, judge, inspector or clerk of election, under this commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the holding of any of the aforesaid offices or appointments under this state, is hereby declared to be incompatible with any office or appointment under the United States; and every such commission, office or appointment, so holden under the government of this state, contrary to the true intent and meaning of this act, shall be, and the same is hereby declared to be null and void.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That if any person, after the expiration of six months from the passing of this act, shall exercise any offices or appointments, the exercise of which is by this act declared to be incompatible, every person so offending, shall for every such offence, being thereof legally convicted in any court of record, forfeit and pay any sum not less than fifty nor more than five hundred dollars, at the discretion of the court, one moiety of the said forfeiture to be paid to the overseers, guardians or directors of the poor of the township, district, county or place where such offence

shall have been committed, to be applied to the support of the poor, and the other moiety thereof to the prosecutor who shall sue for the same.

Recorded L. B. No. 8, p. 33.

IN THE HOUSE OF REPRESENTATIVES.

Wednesday, February 3d, 1802.

Mr. Thompson, the Secretary of the commonwealth, being introduced, presented to the chair, a message from the Governor, which was read as follows, viz:

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PENNSYLVANIA.

Gentlemen:

I HAVE read and considered the act of the general assembly, entitled "An Act declaring the holding of offices or appointments under this state, incompatible with the holding or exercising offices or appointments under the United States." I have reconsidered and deliberated most seriously its operation, and do not approve of it. I have directed it to be returned to the house of representatives, in which it originated, together with my objections, which are as follows, to wit:

First.—Since the present constitution of Pennsylvania was established, on the second day of September, 1790, until this period, no complaint or application has been made, by petition or otherwise, to any branch of our government, suggesting that any officer under the government of the United States, or member of congress, held an office in this state, that was supposed to have a tendency to affect the sovereignty or freedom thereof; from which I conclude that the separation made by the constitution between the government of the United States and of this state, with respect to the administration of their respective powers, has been carried far enough, and is perfectly satisfactory to the people.

Second.—I cannot conceive a reason for introducing such an act at this time, when the good people of this commonwealth, can entertain no apprehensions, of a wish of the pres-

ent providential and most fortunate representation in the executive and legislative departments of our national government, to impair the constitutional sovereignty of the individual states.

It appears to me to intimate an unreasonable jealousy and distrust, not only of the virtuous and great chief magistrate of the union, but also of the chief-magistrate of Pennsylvania; both chosen by the people themselves, and known to be unequivocally disposed to secure and promote their happiness.

Third.—Because a few months ago I persuaded a gentleman, not less distinguished for probity than talents, to accept the commission of recorder of the city of Philadelphia, during his good behavior, though then attorney of the United States, for the eastern district of Pennsylvania, in the holding of which, at the same time, I am not happy enough to discover any collision or incompatibility; and therefore it must appear very extraordinary indeed, in me, to co-operate in an act that declares his commission shall not only be vacated, but, if he exercises the office for a time, he shall be considered as a criminal; when there has not been, nor can be, even the slightest suggestion of misbehavior or incapacity.

Fourth.—There are at present, in my recollection, but two gentlemen of this state, who have been appointed by me, that can be effected by this act, one has been mentioned; another, a member of congress, was lately appointed resident-physician at the lazaretto. What possible evil can arise to Pennsylvania from these appointments, I do not comprehend; especially when it is considered that these gentlemen have been distinguished for patriotism, talents, and attachment to our revolutionary and republican principles. It will be very difficult to find a gentlemen of the law qualified for the office of recorder of the city of Philadelphia, that has not been admitted to practice in some of the courts of the United States; and all such are excluded by this act. Nor can I perceive the danger to be apprehended for the liberties of the state, from the same person officiating as constable, &c., under both branches of our government.

Fifth.—I conceive the act to be not only unnecessary and inexpedient, but in the precedent alarming to all persons holding offices during good behavior. The tenure of such commissions ought not to depend on every gale that blows. The legislature cannot vacate or impair a contract solemnly made between the commonwealth and an individual; having even the power, will not sanction it. Besides, as at present advised, I very much doubt its constitutionality. The office may be abolished in many cases, but the officer cannot be removed without being convicted of a misdemeanor in office, unless where otherwise specially provided in our state constitution; and I cannot, from a confidence in the legal knowledge, integrity and fortitude of my former brethren in the supreme court, risk my character in a judicial decision on this question, when I do not foresee any advantage to be derived to my country from a possibility of success. What conscience warns me not to do, I must avoid; however anxious to gratify a legislature, by me, so much respected and esteemed.

THOMAS M'KEAN.

Lancaster, February 3, 1802.

Ordered to lie on the table.

Whereupon, On motion of Mr. Mitchell, seconded by Mr. Conrad, the house, in conformity to the mode prescribed (in such cases) by the twenty-second section of the first article of the constitution of this commonwealth, proceeded to the reconsideration of the said bill, returned to the Governor; which was read, and

On motion of Mr. F. Smith, seconded by Mr. Rose, Ordered, That the further consideration thereof, be postponed until Wednesday next.

Wednesday, February 10, 1802.

In conformity to the twenty-second section of the first article of the constitution, relative to bills returned by the governor (without having received his approbation or signature, and with his objections to the same) the house again resumed the consideration of the bill, entitled "An Act declaring the holding of offices or appointments under this state, incom-

patible with the holding or exercising offices or appointments under the United States;" and

On the question,—“Shall this bill pass?”

Agreeably to the mode prescribed by said constitution, the votes were taken by yeas and nays, when it appeared the yeas were seventy-six, nays four.

So there being a constitutional majority, it was determined in the affirmative, and

Ordered, That said bill pass, and that it be transmitted to the senate, with the Governor's objections to the same, as directed by the twenty-second section of the first article of the constitution of this commonwealth aforesaid.

Lancaster, February 10, 1802.

Extract from the Journal,

MATTHEW HUSTON, C. H. R.

SENATE.

Thursday, February 11, 1802.

Mr. Huston, clerk of the house of representatives (agreeably to the twenty-second section of the first article of the constitution of this commonwealth, in the case of bills returned by the Governor without having received his approbation and signature) presented the bill, entitled “An Act declaring the holding of offices or appointments under this state, incompatible with the holding or exercising offices or appointments under the United States,” together with the Governor's objections to the same; and informed the senate that the house of representatives had re-considered the said bill, and by a constitutional majority, passed the same; and the said bill, and the Governor's objections were severally read, Whereupon,

It was moved by Mr. Barton, seconded by Mr. Gurney, and agreed,

That the further consideration thereof at this time be postponed, and that the same be the order of the day for tomorrow.

Friday, February 12, 1802.

According to the order of the day, the senate proceeded to the further consideration of the bill, entitled "An Act declaring the holding of offices or appointments under this state, incompatible with the holding or exercising offices or appointments under the United States," together with the Governor's objections to the same.

After debate,

The question,—“Shall this bill pass?” being put, agreeably to the twenty-second section of the first article of the constitution, the yeas and nays were taken; and there appeared to be eighteen yeas and seven nays.

So that the said bill was passed by a constitutional majority, Whereupon,

Ordered, That the said bill be returned to the house of representatives, with information that the senate hath passed the same by a constitutional majority.

Extract from the Journal.

GEORGE BRYAN, C. S.

CHAPTER MMCCXXXIII.

AN ACT FOR THE RELIEF OF WILLIAM HILL OF THE STATE OF MASSACHUSETTS AND ESTHER HIS WIFE, AND TO CONFIRM IN BURTON WALLACE AND HIS HEIRS FOREVER, THE TITLE TO A CERTAIN MESSUAGE AND LOT OF GROUND THEREIN MENTIONED.

Whereas, William Hill now resident in the state of Massachusetts, and Esther his wife, have, by their petition, represented that at the time of the intermarriage of the said petitioners, the said Esther was under the last will of her late father the reverend Jacob Duche, deceased, seized in fee of a moiety of a certain messuage and lot of ground situated in Chestnut street, in the city of Philadelphia, and possessed of a moiety of certain personal estate, consisting of forty-six shares in the capital stock of the president, directors and company of the bank of Pennsylvania, one share in the capital stock of the president, directors and company of the bank

of North America, and a mortgage executed by John Bernard Gilpin to her said father, for the principal sum of four hundred and sixty-one pounds one shilling and four-pence, which said real and personal estate, by a certain indenture, tripartite, made the seventh day of August, seventeen hundred and ninety-eight, between the said Esther, of the first part, the reverend William White, doctor of divinity, and bishop of the protestant episcopal church of Pennsylvania, and Miers Fisher, of the city of Philadelphia, gentleman, of the second part, and the said William Hill, of the third part, were conveyed to the said William White and Miers Fisher, their heirs, executors and administrators, in trust; nevertheless, to permit the said petitioners, parties thereto, to receive the profits of the said estate, real and personal, during their marriage, and further to convey and assure the same to such person or persons, for such estates and interests, and in such shares and proportions as the said Esther, whether covert or sole, should by any writing in the nature of her last will and testament, order, direct and appoint, and for want of such appointment, to all and every one or more child or children of the said Esther, which should be living at the time of her death, in equal shares, if more than one, and for want of a child then living, to the said William Hill, his heirs, executors and administrators, to his own use for ever, if he be then living; and if he should be then dead, then to the right heirs and legal representatives of the said Esther; that the said petitioners, having since the execution of the said indenture, removed from the state of Pennsylvania, and holding merely a moiety of the said real and personal estate, the other moiety being the property of Sophia, the wife of John Henry, now in the state of Massachusetts, and only sister of the said Esther, who with her said husband, had determined to dispose of their interest in the same, have found the terms of the settlement, and the nature of the trust, raised and established by the said indenture, extremely burdensome and inconvenient, inasmuch as they are thereby prevented from making that beneficial application of their property, which the place of their residence and other circumstances render advisable, the said

indenture making no provision for any declaration of uses thereupon; but by the last will and testament of the said Esther; that the persons jointly interested with the said petitioners, in the messuage and lot of ground aforesaid, having determined to dispose of their share in the same, made it necessary to the said petitioners, to prevent a general sacrifice, to join in the sale, and they did accordingly, by deed of bargain and sale, bearing date the eighth day of August, in the year of our Lord eighteen hundred and one, for a valuable consideration, which has been fully paid, convey their moiety—in the said messuage and lot of ground, to Burton Wallace, of the city of Philadelphia, gentleman, and his heirs, in fee-simple; and the said petitioners have prayed, that an act may be passed to confirm the title of the said Burton Wallace, in the said moiety, of the said messuage and lot of ground, in him and his heirs for ever, in fee simple, and to direct and authorize the said William White and Miers Fisher, the trustees abovementioned, to convey and assign over to such person or persons, as the said Esther, by deed or any writing, in the nature of her last will and testament, shall order, direct and appoint, the moiety of the said personal estate, so conveyed, to the said trustees as above recited; and the said William White and Miers Fisher, the trustees abovementioned, have fully expressed their consent and approbation to the said prayer to the petitioners. Therefore:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the title to the said moiety of the said messuage and lot of ground, situate in Chestnut street, in the city of Philadelphia, be, and the same is hereby confirmed in the said Burton Wallace, of the city of Philadelphia, gentleman, and his heirs and assigns for ever, to and for his and their own use, as fully and amply as the said Esther was entitled to, and held and enjoyed the same before her marriage and the execution of the said indenture, under the last will and testament of the said reverend Jacob Duche, deceased, free, disencumbered and discharged from the said

trust; any contingency or other matter or thing, in the said indenture contained, notwithstanding.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said William White and Miers Fisher, the trustees above mentioned, be and they are hereby authorized and directed to assign over, transfer and convey, to such person or persons, and in such shares and proportions, as the said Esther, by any deed or writing, in the nature of her last will and testament, shall order, direct and appoint, all the said personal estate so vested in them as aforesaid, by the said indenture, herein before recited and referred to; and all the proceeds of the same, if any part thereof should have been heretofore sold or invested in other funds or securities, free, disencumbered and discharged from the said trust; and contingency or other matter or thing, in the said indenture contained, notwithstanding.

Approved February 3, 1802. Recorded in L. B. No. 8, p. 36.

CHAPTER MMCCXXXIV.

AN ACT TO FACILITATE THE SETTLEMENT OF THE ACCOUNTS OF THE FORMER AND PRESENT COUNTY TREASURERS FOR ARREARS OF STATE TAXES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the comptroller and register-generals be and they are hereby authorized to recommend to the governor, for his approbation and appointment, a competent agent or agents (for whose conduct the said comptroller and register-generals shall be accountable) to examine and adjust the accounts of the former and present county treasurers, for the arrears of state taxes; which agent or agents shall, as soon as conveniently may be, attend in those counties where the said comptroller and register-generals shall deem necessary, which are in arrears in the payment of state taxes, and shall proceed to examine and adjust the said accounts of the

former and present county treasurers, as well for ascertaining the amounts assessed, levied and collected, as in whose hands any balance remains; and it shall be the duty of the comptroller and register-generals, at least twenty days previous to the time of such agent or agents coming into any county where such accounts are to be adjusted, to give notice thereof to the said treasurers; and if on demand by the said agent or agents, the treasurers, commissioners or auditors for auditing, settling and adjusting the public accounts of county treasurers and commissioners, shall neglect or refuse to produce and exhibit any of their books, accounts or papers by them kept, as county treasurers, commissioners or auditors, as aforesaid, for every such neglect or refusal of the said county treasurers, commissioners or auditors, they shall, on conviction thereof in any court of record of this commonwealth, severally forfeit and pay to the treasurer of the state, for the use thereof, any sum not less than three hundred, nor more than one thousand dollars, at the discretion of the court before whom such conviction may be had.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the comptroller and register-generals, shall, on or before the first day of May next, furnish the said agent or agents with certified copies of all the documents in their respective offices, which they shall judge necessary to enable him or them to execute the duties by this act enjoined; and when so furnished with the copies aforesaid, the said agent or agents shall proceed, at such time, and to such counties as the said comptroller and register-generals shall direct.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the agent or agents appointed as aforesaid, when performing the duties enjoined by this act, shall have like powers with which the comptroller and register-generals are invested by the laws of this commonwealth, so far as relate to the adjusting the accounts aforesaid.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That all settlements made by

virtue of this act, shall have like effect, and be subject to like appeals and restrictions, as are provided by the act, entitled "An act to provide for the settlement of public accounts, and for other purposes therein mentioned," passed the fourth day of April, one thousand seven hundred and ninety-two.⁽¹⁾

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That each and every agent who may be appointed as aforesaid, shall be allowed for his services required by this act, four dollars per day, payable out of the aggregate funds of this commonwealth.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the act, entitled "An act to facilitate the settlement of the accounts of former and present country treasurers, for arrears of state taxes," passed the fourth day of February one thousand eight hundred and one, be, and the same is hereby repealed.⁽²⁾

Approved February 5, 1802. Recorded L. B. No. 8, p. 41.

Note ⁽¹⁾ Chapter 1627, 14 Statutes at Large, p. 243.

Note ⁽²⁾ Chapter 2174, 16 Statutes at Large, p. 519.

CHAPTER MMCCXXXV.

AN ACT TO PRESCRIBE THE TIMES, PLACES AND MANNER OF CHOOSING SENATORS, TO REPRESENT THIS STATE IN THE SENATE OF THE UNITED STATES.

Whereas, the constitution of the United States declares that the times, places and manner of holding elections for senators of the United States, shall be prescribed in each state by the legislature thereof. Therefore:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That whenever a vacancy is about to take place in the representation from this state, in the senate of the United States, in consequence of the expiration of the time for which a senator was chosen, the legislatures shall proceed to supply such vacancy in the following manner,

to wit: The members of both houses shall assemble in the chamber of the house of representatives, at the hour of twelve, on the second Tuesday in December preceding the month of March in any year, wherein a vacancy shall happen by the expiration of the constitutional term, for which such senator was elected, and then and there elect a senator or senators, as the case may be, to represent this state in the senate of the United States, which election shall be conducted in the following manner, viz. Before the time of meeting, each house shall appoint one teller, and nominate one or more candidate or candidates for senator, and two days previously to the said meeting communicate to each other the names of the persons so by them respectively appointed and nominated: At the meeting, the speaker of the senate, or in his absence, the speaker of the house of representatives shall preside; the names of the persons voted for, and the members voting, shall be entered in writing by the tellers, who shall report to the president the number of votes given for each candidate; if neither of the candidates shall have a majority of votes of the whole number of the members present, a second poll shall be taken, and so from time to time, until some one of the candidates shall have a majority of votes of the whole number of the members present. If the election shall not have been completed at the first meeting, the president shall adjourn to such time as a majority of the members then present shall agree, and so from time to time, until the election shall have been finally closed; whereupon the president shall announce the person having a majority of votes of the whole number of members present, to be duly elected a senator to represent this state in the senate of the United States. And the president shall, in the presence of the members of both houses, sign four several certificates of the election, attested by the tellers; one of which certificates shall be transmitted to the president of the senate of the United States, one to the person so elected, and the remaining two shall be preserved among the records, and entered at length on the journal of the senate and on the journal of the house of representatives. And whenever a

vacancy by death, resignation, or otherwise, shall happen in the representation of this state, in the senate of the United States, after the said second Tuesday in December, and during the session of the legislature; then and in such case, the legislature shall, within eight days after knowing or being informed of such vacancy, proceed to fill the same, in the manner hereinbefore prescribed.

Approved February 5, 1802. Recorded L. B. No. 8, p. 39.

CHAPTER MMCCXXXVI.

AN ACT TO ERECT MAHANTANGO TOWNSHIP, IN THE COUNTY OF BERKS, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the township of Mahantango, in the county of Berks, shall be a separate election district, to be called "Mahantango district;" and the electors thereof shall hold their general elections at the house now occupied by Michael Artz, in said township of Mahantango.

Approved February 5, 1802. Recorded L. B. No. 8, p. 41.

CHAPTER MMCCXXXVII.

AN ACT FOR THE RELIEF OF JOHN BERRELL.

Whereas, it has been represented to the legislature that John Tyson, late of the township of Abington, county of Montgomery, and state of Pennsylvania, deceased, being in his life time, seized in his demesne, as of fee, of and in a certain lot of land, situate in the township of Abington aforesaid, containing about sixteen acres of land, did by parol contract, agree to sell and convey the same to John Berrell, of the township of Abington aforesaid, in fee, for a valuable consideration, which consideration has been paid by the said John Berrell,

but the said John Tyson died before a deed of conveyance was executed for the said lot of land: And whereas, it appears to the legislature, that Isaac Tyson and Thomas Tyson, executors of the last will and testament of the said John Tyson, deceased, are willing and desirous that a law should be passed to authorize them to convey the said lot of land to the said John Berrell, his heirs and assigns, conformably to the said parol contract; and as relief cannot be had under any existing law of this commonwealth. Therefore:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Isaac Tyson and Thomas Tyson, executors of the last will and testament of John Tyson, deceased, by leave of the court of common pleas for the county of Montgomery, upon such reasonable notice being given, as the said court shall direct, to all persons interested, to make and execute a deed to John Berrell, his heirs and assigns, for a certain lot or piece of land, situate in the township of Abington and county of Montgomery, beginning at a white-oak stump, in the line of Samuel Shoemaker's land; thence by David Krier's land, south forty-eight degrees forty-five minutes east, sixty-three perches and a quarter of a perch, to a corner stone; thence by John Thaw's land, north forty-one degrees and forty minutes east, twenty-two perches and forty-five one hundredths of a perch, to a corner stone; thence south forty-eight degrees forty-five minutes east, seven perches and fifteen one hundredths of a perch to a corner stone; thence north forty-one degrees and forty minutes east, fifteen perches and a quarter of a perch, to a corner stone; thence by John Hobensack's land, north forty-eight degrees forty-five minutes west, seventy perches and four tenths of a perch, to a corner stone; thence by the said Samuel Shoemaker's land, south forty-one degrees and forty minutes west, thirty-eight perches and nine-tenths of a perch to the place of beginning, containing sixteen acres and eleven perches of land; which deed shall be as good and available, to all intents and purposes, as if the same had been executed in

pursuance of the powers given to the courts of judicature, by the act, entitled "An act to enable executors and administrators, by leave of court, to convey lands and tenements contracted for with their decedents, and for other purposes therein mentioned," passed the thirty-first day of March, one thousand seven hundred and ninety-two:⁽¹⁾ Provided always, that nothing herein contained, shall be deemed or construed to bar or defeat any other person or persons, bodies politic or corporate, of any right, title, interest, claim or demand, which they may have, in, or to the said lot or piece of land, or any part thereof.

Approved February 10th, 1802. Recorded in L. B. No. 8, p. 44.
Note (1) Chapter 1618. 14 Statutes at Large, p. 220.

CHAPTER MMCCXXXVIII.

AN ACT ALTERING THE PLACE OF HOLDING THE ELECTIONS IN AIR TOWNSHIP, IN THE COUNTY OF BEDFORD.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors residing within the fifth district, in the county of Bedford, shall hold their general elections at the house now occupied by Jacob Four, in M'Connellsburg; any former law to the contrary thereof notwithstanding.

Approved February 13, 1802. Recorded L. B. No. 8, p. 47.

CHAPTER MMCCXXXIX.

A FURTHER SUPPLEMENT TO THE ACT ENTITLED "AN ACT TO INCORPORATE THE DISTRICT OF SOUTHWARK." (1)

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of the

district of Southwark, be, and they are hereby authorized and empowered to appoint one or more proper officer or officers, for such time and under such security and penalties, as to them may appear necessary, for the inspection and measurement of all cord wood which may be landed or offered for sale within any part of the district aforesaid; and the officer or officers so appointed, shall be entitled to receive, as a compensation for his or their services, at the rate of four pence per cord, for all wood so measured and inspected, one moiety thereof to be paid by the seller, and the other by the purchaser.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That every person appointed a corder or inspector of wood, agreeably to the provision of this act, shall, before he enters upon the duties of his office, take and subscribe an oath or affirmation, before some justice of the peace, that he will perform his duty with fidelity and impartiality.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall, from and after the first day of March next, exercise the office of corder or inspector of cord wood within the district aforesaid, unless he or they be duly authorized by the commissioners thereof, he or they so offending, shall on conviction thereof, forfeit and pay the sum of two dollars for every such offence, one moiety thereof to the overseers of the poor of the said district, and the other moiety to the person who shall sue for the same.

Approved February 13, 1802. Recorded L. B. No. 8, p. 46.

Note (*). Chapter 1742. 15 Statutes at Large, p. 49.

CHAPTER MMCCXL.

AN ACT ERECTING THE TOWNSHIP OF CONEMAUGH, IN THE COUNTY OF SOMERSET, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by

the authority of the same, That from and after the passing of this act, Conemaugh township, in the county of Somerset, shall be an election district, and the electors thereof shall hold their general elections at the house now occupied by John Horner, junior, in the town of Conemaugh, in said township, and shall henceforth be called Conemaugh district.

Approved February 13, 1802. Recorded L. B. No. 8, p. 48.

CHAPTER MMCCXLI.

AN ACT ERECTING CERTAIN ELECTION DISTRICTS IN THE COUNTY OF YORK.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the townships of Warrington, Reading and Huntingdon, shall be a separate district, to be called the fifth election district; and the electors thereof shall hold their general elections at the house of James M'Millen, in Rosstown.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the township of Manahan shall be a separate district, to be called the sixth election district; and the electors thereof shall hold their general elections at the house now occupied by Leonard Eichelberger, in said township.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the township of Shrewsbury shall be a district, to be called the seventh election district; and the electors thereof shall hold their general elections at the house of the late Thomas Ehrhart, deceased, of said township.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the township of Codorus shall be a separate election district, to be called the eighth district, and the electors thereof shall hold their general

elections at the house now occupied by Adam Zigler, in said township.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the township of Dover shall be a separate election district, to be called the ninth district; and the electors thereof shall hold their general elections at the house now occupied by Patrick M'Farlin, in Dovern town in said township.

Approved February 13, 1802. Recorded L. B. No. 8, p. 48.

CHAPTER MMCCXLII.

AN ACT FOR THE RELIEF OF MICHAEL COX.

Whereas, it hath been represented to the legislature, that a certain Joseph Terrance, purchased at public sale, of the agents of forfeited estates, one hundred and fifty-six acres and one half of an acre of land, with the appurtenances, situate in German township, in the county of Fayette, which had been confiscated to this commonwealth, as the estate of Anthony Yeldall, and which by deed poll, dated the twenty-third day of February, in the year one thousand seven hundred and ninety-three, was, under the hand of Thomas Mifflin, then governor, and the great seal of the said commonwealth, conveyed in fee-simple to the said Joseph Terrance, who, together with his wife, by indenture, conveyed the same to William Oliphant, who, together with his wife, conveyed the same to the said Michael Cox, who, on the thirteenth day of December, in the year one thousand and eight hundred, was, in due form of law, evicted from the said tract of land, by a title paramount in a certain Edward Green: And whereas, by the laws of this commonwealth, the said Michael Cox is entitled to be paid out of the treasury of the state, the value of the said tract of land at the time of the said eviction. Therefore:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by

the authority of the same, That the court of common pleas, in and for the said county of Fayette, is hereby authorized and required, on the petition of the said Michael Cox, to award a writ of appraisement, directing the sheriff of the said county, to summon an inquest to appear and ascertain, on oath or affirmation, the value of the said tract of land, containing one hundred and fifty-six acres and one half of an acre, with the appurtenances, situate in German township, in the county aforesaid, at the time of the said eviction, and also the value of the mesne profits of the said tract, in the hands of the said Michael Cox, and to make a due return thereof; and the said court, if they approve of the same, shall certify all the proceedings had in pursuance of this act, to the governor, who shall thereupon deduct the mesne profits from the valuation of the said tract, and draw a warrant on the treasurer of the state for the remainder of the valuation, in favor of the said Michael Cox, to be paid out of any unappropriated monies of this commonwealth, as a full satisfaction and compensation for all costs and damages, which may have been sustained through the defect and invalidity of the deed of conveyance, made as aforesaid, to the said Joseph Terrance.

Approved February 19th, 1802. Recorded in L. B. No. 8, p. 49.

CHAPTER MMCCXLIII.

AN ACT TO ENABLE JAMES WICKERSHAM, SAMUEL GARRETSON AND EZEKIEL KIRK, TO CONVEY A CERTAIN PIECE OF LAND IN THE TOWNSHIP OF NEWBURY, YORK COUNTY.

Whereas, James Wickersham, Samuel Garretson and Ezekiel Kirk, trustees appointed by the monthly meeting of the society of the people called Quakers, held at Warrington meeting-house, in the township of Warrington, in the county of York, have by their petition to the legislature, represented that a certain tract of land was granted to John Garretson and Joseph Hutton (now deceased) by patent dated the twentieth day of May, in the year of our Lord one thousand seven hundred and ninety-six, in trust for the use of said society,

in the township of Newbury, in the county aforesaid, for the purpose of a place of meeting and burying ground; and that the said society, at the last mentioned place, ordered and directed them the said trustees to sell a part of the said tract, amounting to thirteen acres and two perches, to defray the expences incurred by patenting the same, as well as certain expences incurred on account of some poor persons assisted by the society at the said last mentioned place; and that in pursuance of the said order and direction, they did sell the said thirteen acres and two perches of land, to a certain Cornelius Garretson, for the sum of sixty-four pounds one shilling and three-pence; and therefore the said trustees respectfully solicit that an act may be passed, to vest the title of the said society in the premises in the said Cornelius Garretson, in fee simple. Therefore:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the said James Wickersham, Samuel Garretson and Ezekiel Kirk, the survivor or survivors of them, shall be, and they are hereby empowered to convey in fee-simple, by deed reciting this act, to the said Cornelius Garretson, thirteen acres and two perches of land, by metes and bounds, being part of a certain tract of land, patented to John Garretson and Joseph Hutton, on the twentieth day of May, in the year of our Lord one thousand seven hundred and ninety-six, in trust for the use of the society of the people called Quakers, in Newbury township, in the county of York, for the purpose of a place of meeting and burying ground; which said thirteen acres and two perches, have been sold by them to the said Cornelius Garretson, in order to defray certain expences incurred in necessary and benevolent purposes, as set forth in their petition to the legislature, in obedience to the order and direction of the said society.

CHAPTER MMCCXLIV.

AN ACT TO ERECT THE TOWN OF CANONSBURG, IN THE COUNTY OF WASHINGTON, INTO A BOROUGH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the town of Canonsburg, in the county of Washington, shall be, and the same is hereby, erected into a borough, which shall be called the "Borough of Canonsburg," and shall be comprised within the following bounds, to wit: Beginning at the mouth of Bush run; thence up said run to the division line between Craig Ritchie's land and Samuel Witherspoon's lot; thence along the line of said lot, so as to include the same, to Thomas Briceland's land; thence along the line of said land, until it strikes Wells's road; thence to the corner of Nathan Andrew's lot; thence along the north side of the same, to the lot attached to the old brew-house; thence along said lot, so as to include the same, to the west end of the town lots on the west side of the principal street; thence along the said road southwest, to a white oak marked G, at the southwest end of Miller's improvement on Darr and Ogle's land; thence a direct course to Chartier's creek; thence down the same, to the place of beginning.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for all persons having resided within the said borough six months next preceding the election, and being entitled to vote for members of the general assembly, on the first Monday of May, in each and every year hereafter, to meet in one of the rooms of the college in the said borough, and then and there elect, by ballot, between the hours of twelve and six o'clock in the evening, one reputable citizen, residing therein, who shall be styled the burgess of the borough, and five reputable citizens to be a town council, and shall also elect a high

constable; but previous to the opening of any such election, the said inhabitants shall elect three reputable citizens, one of whom shall preside as judge, one to act as inspector, and the other to perform the duty of clerk, according to the directions of the general election laws of this commonwealth, so far as relate to the receiving and counting votes, and shall be subject to the same penalties for malpractices, as by the said election laws are imposed; and the said judges, inspector and clerk, before they enter on the exercise of their respective duties, shall take an oath or affirmation, before any justice of the peace of the county of Washington, to perform the same with fidelity, and shall hold the said elections from time to time, as occasion shall require, receive and count the ballots, and declare the persons having the greatest number of votes to be duly elected: whereupon duplicate certificates thereof shall be signed by the said judge, inspector and clerk, one of which shall be transmitted to each of the persons elected, and the other filed among the records of the corporation, for their safe keeping, and in case of vacancy, by death, resignation, refusal to accept, or removal from the said borough, of any of the said officers, the burgess, or in his absence or inability to act, the first named of the town council, shall issue his precept, directed to the high constable, requiring him to hold an election to fill such vacancy, he giving at least ten days previous notice, by advertisements set up at four of the most public places within the said borough.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the burgess and town council, duly elected as aforesaid, and their successors forever hereafter, shall be one body politic and corporate in law, by the name of "The burgess and town council of the borough of Canonsburg, in the county of Washington," and shall have perpetual succession; and the said burgess and town council aforesaid, and their successors forever hereafter shall be capable in law, to have, get, receive, hold and possess, lands, tenements, rents, liberties, jurisdictions, franchises and hereditaments, to them and their successors, in fee simple or otherwise, also goods, chattels and other things, of what nature or

kind soever, not exceeding the yearly value of three thousand dollars, and also to give, grant, let, sell and assign the same lands, tenements, hereditaments, rents, goods and chattels, and by the name aforesaid, they shall be capable in law, to sue and be sued, plead and be impleaded, in any of the courts of this commonwealth, in all manner of actions whatsoever, and to have and use one common seal, and the same, from time to time, at their will, to change and alter.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person duly qualified to elect and be elected, whether a burgess or a member of the town council as aforesaid, having been notified as before directed, shall refuse or neglect to take upon himself the execution of the office to which he shall have been elected, every person so refusing or neglecting, shall forfeit and pay the sum of twenty dollars, which fine, and all other fines and forfeitures incurred and made payable in pursuance of this act, or of the by-laws and ordinances of the town council, shall be for the use of the said corporation.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the burgess, town council, and high constable, and each of them, shall take an oath or affirmation before any one of the judges or justices of the peace for the county of Washington, to support the constitution of the United States, and of this state, and well and truly to execute the duties of their respective offices in the borough of Canonsburg, before they shall enter on the execution thereof, and the certificate of such oath or affirmation shall be recorded in the books of the said corporation.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the town council to meet as often as occasion may require, and may appoint a town clerk, and such other officers as may be necessary to regulate the digging and gathering of coal, in the coal banks adjacent to the said town, by the inhabitants thereof, in such manner that the private rights of individuals be not injured or impaired, and manage the concerns of the coal banks, so far as the right of the inhabitants of the said

borough extends to the same; for repairing the streets, lanes and alleys, and for removing nuisances and obstructions therefrom; for regulating partition walls and fences; to enact such by-laws, and make such rules, ordinances and regulations; assess, apportion and appropriate such taxes as shall be thought, by a majority of the town council best calculated to promote the foregoing purposes, and to do every matter and thing incident to, and for the good of the said borough, for the preservation of peace and good government within the same; which by-laws, rules, ordinances and regulations, shall not be repugnant to the constitution and laws of the United States or of this state; and the same to revoke and annul, alter and make anew, as occasion may require; but no person shall be punishable for any breach of the by-laws, rules, ordinances and regulations, unless after the passing of any ordinance, the same be set up on the market house, and on two other of the most public places within the said borough; and no by-law, or ordinance shall have any effect sooner than three weeks after such publication: Provided nevertheless, that no tax shall be laid in any one year, on the valuation of taxable property, exceeding one cent in the dollar, unless some object of general utility should be thought necessary; in such case a majority of the taxable inhabitants of said town, by writing, under their hands, shall certify the same to the town council, who shall proceed to assess the same, as before directed.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the burgess elect, agreeably to the directions of this act, is hereby authorized and empowered to issue his precept to the high constable, commanding him to collect all taxes assessed from time to time, as aforesaid, and all fines and forfeitures that may become due by this act, or by the ordinances or regulations of the corporation, and the same to pay over to the treasurer to be appointed by the town council, and to carry into effect whatsoever is enjoined on him for the well ordering and good government of the said borough: Provided nevertheless, that it shall and may be lawful to and for the justices of the peace of the said borough, and all and every the justice or justices of the peace

aforesaid, residing or being in the said borough, to do and execute every act or acts, as pertaining to their office, agreeably to the powers conferred on them by the constitution and laws of this commonwealth.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the burgess shall be, and he is hereby required to cause the by-laws, rules, ordinances and regulations, made as aforesaid, to be recorded in a book to be kept for that purpose; and he shall carry the same into full execution, without delay, after the publication thereof, as directed by the sixth section of this act. And it shall be the duty of the town clerk to attend all meetings of the town council, when assembled on business of the corporation, and perform the duties of clerk thereto, and keep and preserve the common seal, records, papers, books and other documents relating to said corporation, under the penalty of being answerable to any person concerned, for all damages, and of removal from office by the burgess, on complaint of a majority of the council; and the high constable shall perform all the duties on him enjoined by this act and the by-laws and ordinances of the town council, under the like penalties and manner of removal: Provided always, that if any person shall think himself or herself aggrieved by anything done in pursuance of this act, he or she may appeal to the next court of quarter sessions to be holden for the county of Washington, he or she giving surety, according to law, to prosecute his or her appeal with effect, which court shall take such order therein, as shall be just and reasonable, which order or judgment shall be conclusive to all parties.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That nothing contained in an act of the general assembly, entitled "An act for opening and better amending and keeping in repair the public roads and highways within this province," passed in the year of our Lord one thousand seven hundred and seventy-two,⁽¹⁾ shall be deemed, construed or taken to extend to public roads, streets, lanes or alleys within the said borough, or to the assessing the inhabi-

tants thereof, for the purposes therein mentioned, or to any matter or thing to be done or performed therein.

Approved February 22, 1802. Recorded L. B. No. 8, p. 54.

Note (1). Chapter 653. 8 Statutes at Large, p. 185.

CHAPTER MMCCXLV.

AN ACT DECLARING TEN MILE CREEK, FROM THE MOUTH THEREOF TO JACOB ADAM'S MILL, IN THE COUNTY OF GREENE, A PUBLIC HIGHWAY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Ten Mile Creek, from the mouth thereof, at the Monongahela river, up to the main fork, and thence up the fourth branch of said creek, as far as Jacob Adams' mill, near Waynesburgh, in the county of Greene, shall be, and the same is hereby declared to be a public highway, under the limitations and restrictions hereinafter specified; and it shall and may be lawful for any person or persons desirous of improving or using the navigation of said creek, to remove all natural and artificial obstructions (excepting mill dams already built) out of the bed of said creek, from the mouth thereof to the main fork, and thence up the south branch, to the said Jacob Adams' mill, and also to erect such slopes at the mill dams already built, and keep them in repair, as may be necessary for the passage of boats and rafts and the ascent of fish: Provided always, that such slopes be so constructed and repaired as not in any wise to injure the said dams.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That nothing in this act contained, shall be deemed, taken or understood to prevent any person or persons, their heirs or assigns, possessing lands on said creek, who before the passing of this act had a lawful right to erect a dam or dams, from erecting any such dam or dams that he, she or they may think proper: Provided always, that every

such dam be so constructed and kept in repair, as that there shall be a slope to each dam, at least thirty feet in width, and extending four times the distance down the creek that such dam may be in perpendicular height, and sufficient for the passage of boats and rafts, and the ascent of fish.

Approved February 22, 1802. Recorded L. B. No. 8, p. 52.

CHAPTER MMCCXLVI.

AN ACT REGULATING THE OFFICE OF JUSTICE OF THE PEACE, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first day of August next, no justice of the peace shall act as such unless he shall reside within the limits of the district for which he was commissioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That from and after the first day of July next, no license for keeping a tavern or public house of entertainment, shall be granted to any person either directly or indirectly, who at the same time holds a commission of the peace; and if any justice of the peace or alderman shall keep his stated office in any tavern or public house of entertainment, or any building appertaining thereunto, he shall for every such offense, on conviction thereof in any court of quarter sessions of the peace, or mayor's court of the proper city or county, forfeit and pay the sum of fifty dollars, one moiety thereof to the overseers, guardians or directors of the poor of the township, district or county where such offense shall have been committed, to be supplied to the support of the poor, and the other moiety thereof to the prosecutor.

Approved February 22, 1802. Recorded L. B. No. 8, p. 53.

CHAPTER MMCCXLVII.

AN ACT TO PROVIDE FOR THE EDUCATION OF POOR CHILDREN GRATIS.

Whereas, by the first section of the seventh article of the constitution of this commonwealth, it is directed "That the legislature shall, as soon as conveniently may be, provide by law for the establishment of schools throughout the state, in such manner as that the poor may be taught gratis:" Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the guardians and overseers of the poor of the city of Philadelphia, the district of Southwark and township of the Northern Liberties, and every township and borough within this commonwealth, shall ascertain the names of all those children whose parents or guardians they shall judge to be unable to give them necessary education, and shall give notice in writing to such parents or guardians, that provision is made by law for the education of their children or the children under their care, and that they have a full and free right to subscribe, at the usual rates, and send them to any school in their neighborhood, giving notice thereof, as soon as may be, to the guardians or overseers, of the term for which they have subscribed, the number of scholars, and the rate of tuition; and in those townships where there are no guardians or overseers of the poor, the supervisors of the highways shall perform the duties herein required to be done by the guardians or overseers of the poor.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That every guardian, overseer of the poor, or supervisor of the highway, as the case may be,

in any township or place where any such child or children shall be sent to school as aforesaid, shall enter in a book, the name or names, age and length of time such child or children shall have been so sent to school, together with the amount of schooling, school books and stationary, and shall levy and collect, in the same way and manner, and under the same regulations as poor taxes or road taxes are levied and collected, a sufficient sum of money from their respective townships, boroughs, wards, or districts, to discharge such expenses, together with the sum of five per centum for their trouble.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the guardians or overseers of the poor for the time being, or supervisors of the highways, as the case may be, shall use all diligence and prudence in carrying this act into effect, and shall settle their accounts in the same way and manner as by the existing laws of the state, the guardians, overseers of the poor and supervisors of the highways, are authorized and required to settle their accounts.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of three years, and from thence to the end of the next sitting of the general assembly, and no longer.

Approved March 1st, 1802. Recorded L. B. No. 8, p. 60.

Repealed by Chapter 2465 (Act March 19th, 1804, P. L. 76). Infra this volume p. 720.

CHAPTER MMCCXLVIII.

AN ACT ALTERING THE PLACE OF HOLDING ELECTIONS IN THE FOURTH DISTRICT, IN THE COUNTY OF NORTHAMPTON.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the electors of the fourth election district, in the county of Northampton, shall from and after the passing of this act, hold their general elections

at the house now occupied by Ulrich Houser, in the township of Lower Smithfield aforesaid, anything to the contrary thereof in any former law notwithstanding.

Approved March 1, 1802. Recorded L. B. No. 8, p. 59.

CHAPTER MMCCXLIX.

AN ACT ALTERING THE PLACE OF HOLDING ELECTIONS IN THE FIFTH DISTRICT, IN THE COUNTY OF CUMBERLAND.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors in the townships of Juniata, Greenwood, and that part of Buffalo township lying above the Falls hill, in the county of Cumberland, shall hold their general elections at the house now or lately occupied by William Woods, at Millar's town, in the township of Greenwood aforesaid, any law to the contrary notwithstanding.

Approved March 8, 1802. Recorded L. B. No. 8, p. 64.

CHAPTER MMCCL.

AN ACT TO AUTHORIZE JOHN SHERER TO ERECT A WING DAM ON MONONGAHELA RIVER, IN THE COUNTY OF ALLEGHENY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That John Sherer, his heirs and assigns, be, and they are hereby authorized to erect a wing dam two feet high at low water mark, on Monongahela river, adjoining his own land in the county of Allegheny, about one mile below M'Keesport, on the northeast side of said river, at a place known by the name of "Braddock's Upper Fording," and to extend the dam so far into the said river as may be

necessary, not exceeding one third of the width of said river, for his mill or mills: Provided, that the said John Sherer, his heirs and assigns, in erecting the said dam or keeping the same in repair, or in drawing off the water, shall not thereby, in any degree, injure or impede the navigation of the said river, or prevent the fish from passing up the same. And provided also, that the said John Sherer, his heirs and assigns, shall not thereby interfere with any private property on the said river.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That on complaint of any person or persons to the judges of the court of quarter sessions of the said county, it shall be the duty of the said judges to appoint three commissioners to view the said dam, and compare it with the limitations and provisions herein set forth and enacted, and report to them at their next session in the said county the state thereof; which report, if it contain an offence against this act, it shall be the duty of the court to direct a bill of indictment to be sent to the grand jury, and upon prosecution to conviction, the said John Sherer, his heirs or assigns, shall be liable to pay a fine not exceeding two hundred dollars, at the discretion of the court, who shall order so much of the said dam to be abated as shall bring the same within the limitations and provisions of this act, at the cost of the person so convicted.

Approved March 12, 1802. Recorded P. L. No. 8, p. 66.

CHAPTER MMCCLI.

AN ACT TO ERECT DEER TOWNSHIP, IN THE COUNTY OF ALLEGHENY, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Deer township, in Allegheny county, shall be a

separate election district, and the electors thereof shall hold their general elections at the house now occupied by Thomas M'Connell, in said township.

Approved March 12, 1802. Recorded L. B. No. 8, p. 65.

CHAPTER MMCCLII.

AN ACT ALTERING THE PLACE OF HOLDING THE GENERAL ELECTIONS, IN THE SECOND ELECTION DISTRICT IN THE COUNTY OF WESTMORELAND.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors residing within the second election district, composed of Washington and that part of Franklin township, that lies north of the new Frankstown road in the county of Westmoreland, shall hold their general elections at the house now occupied by John King, in Washington township aforesaid, any law or laws to the contrary notwithstanding.

Approved March 12, 1802. Recorded L. B. No. 8, p. 68.

CHAPTER MMCCLIII.

AN ACT ALTERING THE PLACE OF HOLDING THE GENERAL ELECTION, IN THE DISTRICT COMPOSED OF WHEATFIELD AND PART OF FAIRFIELD TOWNSHIPS, IN THE COUNTY OF WESTMORELAND.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the electors residing within the district composed of Wheatfield and part of Fairfield townships, in the county of Westmoreland, shall hold their general elections at the house now occupied by Richard Dim-

sey, in the town of Armagh, any law or laws to the contrary notwithstanding.

Approved March 12, 1802. Recorded L. B. No. 8, p. 69.

CHAPTER MMCCLIV.

AN ACT FOR THE RELIEF OF DIVERS INHABITANTS OF THE COUNTY OF ADAMS.

Whereas, sundry of the inhabitants of the county of Adams have represented to the legislature that they hold lands in the said county which were settled and improved previously to the eighteenth day of June, in the year of our Lord one thousand seven hundred and forty-one, when a warrant issued for the erection of the manor of Mask, in the said county, the boundary of which was not ascertained till June, in the year of our Lord one thousand seven hundred and sixty-five. That during that period of uncertainty as to the actual limits of the said manor, the present applicants, or those under whom they claim, being supposed to be embraced by it, were precluded from paying the purchase money of their respective tracts, by the proper office being shut against the receipt thereof. That by order of the proprietor, a list descriptive of the names of the first settlers and the dates of their settlement was made and returned into the land office, as evidencing the inception of title in the said manor. But that on the establishment of the boundary, some of the persons named in the said list, under whom the present applicants claim, found their settlements in whole or in part excluded from the said manor; and that the late proprietors in the adjustment of the purchase money with the said settlers and their legal representatives who were included in the manor, thought it just and equitable to exonerate from the payment of interest on their respective purchases during the period aforesaid. And whereas the same justice and equity is alike due to all who are similarly circumstanced: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That an abatement of interest from the eighteenth day of June, in the year of our Lord one thousand seven hundred and forty-one, until the eighteenth day of June, in the year of our Lord one thousand seven hundred and sixty-five, shall be made on the purchase money due by the original settlers and their legal representatives, who were excluded by the established boundary of the manor of Mask from being within the same, and who were prevented from perfecting their title in consequence of their dispute respecting the boundaries of said manor, of which prevention satisfactory proof shall be made, and that thereupon the proper officer credit the said purchases respectively, on their final adjustment with this exoneration: Provided always, nevertheless, that the aforesaid original settlers, or their legal representatives, come forward and pay the purchase money and remaining interest to the receiver-general of the land office, and take out patents for their respective purchases within three years from and after the passing of this act, otherwise to be excluded from the benefit and provisions therein contained.

Approved March 12, 1802. Recorded L. B. No. 8, p. 69.

CHAPTER MMCCLV.

AN ACT FOR THE ERECTION OF CERTAIN ELECTION DISTRICTS IN THE COUNTY OF MERCER.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Wolf Creek township, in the county of Mercer, is hereby declared to be a separate election district; and the electors thereof shall hold their general election at the house now occupied by Charles Blair, in said township.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That Coolspring township, in the

county aforesaid, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by Peter Wilson, in said township.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That Sandy Creek township, in the county aforesaid, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by David Condit, in said township.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That Salem township, in the county aforesaid, shall be a separate election district; and the electors thereof shall hold their general elections at the house now occupied by John Williamson, in said township.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That Pymatuning township, and that part of Neshanock township in the county aforesaid, which lies north of the donation land in the third donation district, be a separate election district; and the electors thereof shall hold their general election at the house now occupied by Vincent Robbins, in Pymatuning township.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the township of Neshanock, in the county aforesaid, except that part already annexed to Pymatuning township, be a separate election district; and that the electors thereof shall hold their general elections at the house now occupied by James Huston, in said township.

Approved March 12, 1802. Recorded L. B. No. 8, p. 67.

CHAPTER MMCCLVI.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO AUTHORIZE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR ERECTING A BRIDGE OVER THE RIVER DELAWARE AT THE BOROUGH OF EASTON, IN THE COUNTY OF NORTHAMPTON." (1).

Whereas, the president, managers and company for erecting a bridge over the river Delaware, at the borough of Easton, have represented by their petition to the general assembly, that by reason of certain unforeseen impediments, they

have not been able to complete the said bridge within the period limited by the act aforesaid. And whereas it is just and proper, in order to prevent the failure of so useful an undertaking, and the loss of the money already expended thereon, that the term for the completion of the said bridge should be enlarged.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That a further term of seven years, from and after the thirteenth day of March next, be and the same is hereby granted to the president, managers and company for erecting a bridge over the river Delaware, at the borough of Easton, to complete the said bridge, anything to the contrary hereof in the act to which this is a supplement notwithstanding.

Approved March 12, 1802. Recorded L. B. No. 8, p. 65.
Note (*). Chapter 1807. 15 Statutes at Large, p. 236.

CHAPTER MMCCLVII.

AN ACT ALTERING THE PLACE OF HOLDING THE GENERAL ELECTIONS IN WYALUSING DISTRICT, IN THE COUNTY OF LUZERNE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors residing within the district of Wyalusing, in the county of Luzerne, shall hold their general elections at the house now occupied by Justus Gaylord, junior, in said district, any former law to the contrary notwithstanding.

Approved March 17, 1802. Recorded L. B. No. 8, p. 71.

CHAPTER MMCLVIII.

AN ACT ALTERING THE PLACE OF HOLDING THE GENERAL ELECTIONS IN THE FOURTH ELECTION DISTRICT, COMPOSED OF THE TOWNSHIP OF BALD EAGLE, IN CENTRE COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors of the fourth election district, composed of Bald Eagle township, in Centre county, shall hold their general elections at the house now occupied by Casper Richards, in said district.

Approved March 17, 1802. Recorded L. B. No. 8, p. 71.

CHAPTER MMCLIX.

AN ACT FOR THE RELIEF OF LEWIS GARANGER.

Whereas, the commonwealth of Pennsylvania received on loan from Lewis Garanger, a certain certificate of registered debt granted to him by the United States for his services in the revolutionary war, and for which the comptroller-general and treasurer of this state, on the first day of April, one thousand seven hundred and eighty-six issued two new loan certificates, numbered seven thousand four hundred and fifty-five, and seven thousand four hundred and fifty-six, in favor of the said Lewis Garanger, for the sum of seven hundred and thirty-seven pounds twelve shillings and six-pence, bearing interest from the twenty-ninth day of September, one thousand seven hundred and eighty-one, and four years interest have been paid thereon by this state: And whereas the said certificate of registered debt hath not been re-exchanged for the said new loan certificates which remain unredeemed: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the comptroller-general and register-general, be, and they are hereby authorized and directed to adjust and settle the principal and interest due the said new loan certificates, and cancel the same; and that the governor is hereby authorized and required to draw his warrant on the state-treasurer, in favor of the said Lewis Garanger, for the amount of the sum so adjusted and settled, to be paid out of any unappropriated money of this commonwealth.

Approved March 17th, 1802. Recorded in L. B. No. 8, p. 73.

CHAPTER MMCCLX.

AN ACT TO ENABLE THE TRUSTEES OF THE RELIGIOUS SOCIETY OF MORAVIANS OR UNITED BRETHREN, IN MOUNTJOY TOWNSHIP, LANCASTER COUNTY, TO CONVEY CERTAIN LAND THEREIN MENTIONED, TO HENRY MEYER.

Henry Meyer, of the township of Mountjoy, in the county of Lancaster, having represented to the legislature, that being seized in fee of a certain tract of land, adjoining the glebe land belonging to the religious society of people called Moravians or United Brethren, and situated in the said township and county; and that for the mutual convenience and accommodation of himself and of the members of the said society he did agree with the trustees of said society to exchange two acres, part of his land, for the like quantity of two acres, part of the glebe land aforesaid; which lands so exchanged, were ascertained by an accurate survey thereof, by courses and distances, bounds and limits, agreed upon between the said parties, and that in pursuance of the said agreement, the said Henry Meyer, by sufficient deed, did convey and assure to the trustees of the said society, in fee-simple, for the use of the said society, by metes and bounds, two acres of land, but that he is without a sufficient title for the land agreed to be conveyed to him in lieu thereof, for want of power in the said trus-

tees to convey the same, and it is reasonable that the said Henry Meyer should be relieved in the premises: Therefor,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Jacob Rixecker and John Rixecker, the present trustees of the religious society of Moravians or United Brethren, in Mountjoy township, in the county of Lancaster, to exchange with, and by a sufficient deed, to convey in fee simple to Henry Meyer, of the said township and county, two acres of land in the said township and county, part of the glebe land belonging to the said society, and adjoining lands of the said Henry Meyer, according to the courses and distances, bounds and limits, ascertained by an accurate survey thereof, and agreed upon by and between the said Henry Meyer and the said trustees, in consideration of the like quantity of two acres of land already conveyed by the said Henry Meyer to the said trustees for the use of the said society, in pursuance of an agreement made between the said parties to exchange the said lands for their mutual accommodation and convenience.

Approved March 17th, 1802. Recorded in L. B. No. 8, p. 73.

CHAPTER MMCLXI.

AN ACT GRANTING UNTO THOMAS SMITH AND JOHN SMITH AN ISLAND AND BAR IN THE RIVER DELAWARE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the secretary of the land office is hereby authorized and directed to issue a patent unto Thomas Smith and John Smith (sons and devisees of Thomas Smith, of Solebury township, Bucks county, yeoman, deceased) for an island and bar in the river Delaware, annexed by an act of assembly, passed the twenty-sixth of September, one

thousand seven hundred and eighty-six,⁽¹⁾ to the township of Solebury aforesaid, containing ten acres, with allowance, as appears by a survey made by order of Thomas Mifflin, late governor of this commonwealth (and deposited in the surveyor-general's office) in consideration of their paying to the receiver-general, the sum of eight dollars per acre, the same, and every part and parcel thereof is hereby granted unto them, their heirs and assigns forever. Provided always, that nothing herein contained shall be deemed or construed to bar or defeat any other person or persons, bodies politic or corporate, of any right, title, interest, claim or demand, which they may now have, in or to the said island, or any part thereof.

Approved March 23, 1802. Recorded L. B. No. 8, p. 75.
Note (1). Chapter 1245. 12 Statutes at Large, p. 304.

CHAPTER MMCCLXII.

AN ACT TO REPEAL SO MUCH OF THE ACT, ENTITLED "A SUPPLEMENT TO THE ACT, ENTITLED 'AN ACT TO PREVENT THE RECEIVING ANY MORE APPLICATIONS, OR ISSUING ANY MORE WARRANTS, EXCEPT IN CERTAIN CASES, FOR LANDS WITHIN THIS COMMONWEALTH,' PASSED SEPTEMBER THE TWENTY-SECOND, ONE THOUSAND SEVEN HUNDRED AND NINETY-FOUR, (1), AS INTERFERES WITH THE ACT, ENTITLED "AN ACT DIRECTING THE SALE OF CERTAIN ISLANDS IN THE RIVER SUEQUEHANNA, PASSED THE SIXTH OF MARCH, ONE THOUSAND SEVEN HUNDRED AND NINETY-THREE,"" (2).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That so much of the supplement to the act, entitled "An act to prevent the receiving any more applications, or issuing any more warrants, except in certain cases, for land within this commonwealth," passed September the twenty-second, one thousand seven hundred and ninety-four,⁽¹⁾ as prevents or bars the issuing any warrant or warrants under the direction of the act, entitled "An act directing the

sale of certain islands in the river Susquehanna, passed the sixth day of March, one thousand seven hundred and ninety-three,"⁽²⁾ be, and the same is hereby repealed and made void.

Approved March 23, 1802. Recorded L. B. No. 8, p. 72.

Note (1). Chapter 1784. 15 Statutes at Large, p. 205.

Note (2) Chapter 1660. 14 Statutes at Large, p. 350.

CHAPTER MMCLXIII.

AN ACT TO EMPOWER THE TRUSTEES OF THE ENGLISH PRESBYTERIAN CHURCH IN ALLEN TOWNSHIP, IN THE COUNTY OF NORTHAMPTON, TO MAKE CONVEYANCE AND ASSURANCE OF THE TRACT OR PIECE OF LAND THEREIN MENTIONED.

Whereas, the trustees of the English Presbyterian church, in Allen township, in the county of Northampton, by their petition to the general assembly, have represented that Samuel Wilson and Sarah his wife, by indenture, bearing date the second day of March, in the year of our Lord one thousand seven hundred and sixty-one, did grant, bargain, sell and convey unto Thomas Armstrong, late of Allen township aforesaid, esquire, and James Ralston, of the said township, yeoman, and their heirs, for the consideration therein mentioned, a certain tract or piece of land, situate in Allen township aforesaid, in the said indenture described as follows, to wit: Beginning at a stone, a corner of James Horner's land, and thence extending by the same, south one hundred and sixty perches, and the same course by Hugh Wilson's land, six perches, to a post; and thence continuing by the said Hugh Wilson's land, one hundred and sixteen perches, to a hickory tree; thence by the said Samuel Wilson's other land, the four courses and distances next following, viz. North eighty perches, to a post; east fifty-three perches; and north sixty-nine perches, to a chestnut sapling in a line of the said James Horner's land; thence by the same east forty-four perches to the place of beginning; containing by computation, eighty-two acres and sixty perches of land, or thereabouts, be the same more or less, with the appurtenances: And that the said

Thomas Armstrong and James Ralston, by deed, bearing date the sixteenth day of February, in the year of our Lord one thousand seven hundred and sixty-seven, recorded in the office for recording deeds, in and for the county of Northampton, in book F. vol. I, page 355, did declare that they held the said tract or piece of land in trust for certain contributors to the purchase thereof, specially named in the said deed, and to the intent and purpose that they the said Thomas Armstrong and James Ralston, among other trusts therein declared, should sell and make a deed of conveyance of the same, as soon as, and not until a majority of the said contributors, or their representatives, according to a rule of representation therein mentioned and prescribed, should by an instrument or instruments of writing, signed by their hands, signify that they choose so to dispose thereof: And that a majority of the said contributors in the said declaration of trust mentioned, or of the representatives of such contributors, according to the rule of representation in the said declaration of trust established and appointed by an instrument of writing, signed by their hands, bearing date in the month of February, in the year of our Lord one thousand seven hundred and ninety-seven, and recorded in the office for recording of deeds, in and for the county of Northampton, in book F. vol. 2, page 636, did testify and declare that the contribution aforesaid, and purchase of the said tract of land, was made solely for the use, benefit and behoof of the English Presbyterian church in Allen township aforesaid: And inasmuch as the said church and congregation had, at the date of the said instrument of writing, been duly incorporated and made a body politic they the subscribers to the said instrument of writing, did thereby signify and declare their full and free consent unto the trustees of the said incorporated English Presbyterian church, and their successors, if they should judge it necessary and beneficial for the said church, to sell and dispose of the said premises, to such person, and for such consideration as can be obtained, and to give good and lawful conveyances to the purchaser or purchasers, in fee: Provided always, that the monies arising from such sale, and the interests thereof, by the said trustees and

their successors, be applied solely to and for the use and benefit of the said incorporated English Presbyterian church in Allen township aforesaid, and the divine service therein to be performed, so long as the aforesaid congregation shall remain in being, and in case of a dissolution of the said congregation, the remainder of the principal arising from the sale of the said land, which shall not have been applied to such uses as aforesaid, shall be divided proportionably among the said contributors or their respective heirs: And whereas the said trustees of the English Presbyterian church in Allen township, in the county of Northampton, have, by their petition, further represented, that conformably to the trusts and intention aforesaid, and the assent aforesaid of the said contributors, or their representatives, and deeming it to be beneficial for the said church, they have sold the said described tract or piece of land to Jacob Bear, of Allen township aforesaid, for a full and valuable consideration, and are desirous to convey the same to the said Jacob Bear and his heirs, in fee-simple, by a good and valid conveyance, as by their agreement with him they are bound to do; but that the said James Ralston, one of the trustees in the said first recited indenture named, having died in the lifetime of the said Thomas Armstrong, whereby the legal estate in the premises, by operation of law, survived to the said Thomas Armstrong and his heirs; and the said Thomas Armstrong having since died in distant parts, and his heirs being so numerous and so widely dispersed as that they can not be found without great and inadequate labor and expense, it has become impracticable to convey and assure the legal estate in the said described tract of land to the said Jacob Bear and his heirs, without the aid of the legislature: And whereas the facts stated in the petition of the said trustees of the English Presbyterian church in Allen township, in the county of Northampton, appear to be true, and it is reasonable and proper to apply a remedy in this behalf.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the

trustees of the English presbyterian church in Allen township, in the county of Northampton, by deed in due form of law, under their corporate seal, or if they have no corporate seal, then under the hands and seals of the trustees of the said church, for the time being, respectively to grant, convey and assure unto the said Jacob Bear and his heirs and assigns, the said herein before described tract or piece of land, with the appurtenances thereunto belonging, which deed shall be good and available, to grant and assure to the said Jacob Bear, his heirs and assigns, the said tract or piece of land, in fee simple, free and discharged of the trust aforesaid, and all the right and title therein, which lawfully passed from the said Samuel Wilson and Sarah his wife, by virtue of the indenture first before recited.

Approved March 23rd, 1802. Recorded in L. B. No. 8, p. 76.

CHAPTER MMCCLXIV.

AN ACT TO REVIVE AND CONTINUE AN ACT, ENTITLED "AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR OPENING A CANAL AND WATER COMMUNICATION BETWEEN THE RIVERS DELAWARE AND SCHUYLKILL, AND FOR OTHER PURPOSES THEREIN MENTIONED;" (1), AND ALSO "AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR OPENING A CANAL AND LOCK NAVIGATION BETWEEN THE RIVERS SCHUYLKILL AND SUSQUEHANNA, BY THE WATERS OF TULPEHOCCON, QUITTAPAHILLA AND SWATARA, IN THE COUNTIES OF BERKS AND DAUPHIN." (2).

Whereas, unforeseen occurrences have hitherto prevented the president and managers of the Delaware and Schuylkill canal company, and the president and managers of the company for opening a canal and lock navigation between the rivers Schuylkill and Susquehanna, from completing the said canals within the time limited by law. And in order that such valuable improvements may be prosecuted to full effect in future,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by

the authority of the same, That the act, entitled "An act to enable the governor of this commonwealth to incorporate a company for opening a canal and water communication between the rivers Delaware and Schuylkill, and for other purposes therein mentioned;"⁽¹⁾ excepting such parts thereof as empower the president and managers to conduct the water from the streams lying between the north bounds of the city of Philadelphia, and the distance of eight miles therefrom, to supply the said city and neighborhood thereof with water, shall be, and the same is hereby revived, continued and extended, for the space of five years from and after the passing of this act, and from thence to the end of the next session of the general assembly.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the act, entitled "An act to enable the governor of this commonwealth to incorporate a company for opening a canal and lock navigation between the rivers Schuylkill and Susquehanna, by the waters of Tulpehocken, Quittapahilla and Swatara, in the counties of Berks and Dauphin,"⁽²⁾ shall be, and the same is hereby revived and extended for the space of five years from and after the passing of this act, and from thence to the end of the next session of the general assembly.

Approved March 23, 1802. Recorded in L. B. No. 8, p. 76.

Note (1). Chapter 1647. Passed April 10, 1792. 14 Statutes at Large, p. 313. This act, revived and continued by the act in the text, was repealed April 2, 1811, by the "Act to Incorporate the Union Canal Company of Pennsylvania."

Note (2). Chapter 1588. Passed September 29, 1791. 14 Statutes at Large, p. 150. This act, revived and continued by the act in the text, was repealed by the statute mentioned in the preceding note.

CHAPTER MMCCLXV.

AN ACT TO CONTINUE CERTAIN SUITS ENTERED IN THE COURT OF COMMON PLEAS, FOR THE COUNTY OF WASHINGTON, IN THE NAME OF THOMAS MIFFLIN, LATE GOVERNOR, AND JOHN NICHOLSON, LATE COMPTROLLER GENERAL OF PENNSYLVANIA.

Whereas, three suits have been brought in the court of common pleas, to March term, 1797, one of them entitled His

excellency Thomas Mifflin, esquire, Governor of the commonwealth of Pennsylvania, against Jacob Jennings Clerk, and Hannah his wife, late Hannah Carnahan, and John Millegan, administrators, &c. of James Carnahan, deceased; and another, entitled His excellency Thomas Mifflin, esquire Governor of the commonwealth of Pennsylvania, against Charles Foreman and David Vanca, surviving obligors in a bond with William Perry, deceased; and the third, entitled John Nicholson, esquire, comptroller-general for the commonwealth of Pennsylvania, against Joseph Thompson and John Probst, surviving obligors in a bond with William Perry, deceased; in which suits respectively, the death of the plaintiffs is suggested, and in each of which, judgment has been rendered for such sum as may be found due; but doubts exist whether the said suits are not abated, though they are instituted upon official bonds in which the nominal plaintiffs have no real interest, and useless expense and unreasonable delay would result, unless the said doubts were removed.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the persons interested in the said suits respectively, to prosecute the same to final judgment and execution, in the names of the said plaintiffs, for the use of the parties interested, on good surety or sureties being entered by them in the said respective actions, by recognizance, to abide the judgment of the court, in case the causes, or any of them, be decided in favor of the defendants.

Approved March 23, 1802. Recorded L. B. No. 8, p. 71.

CHAPTER MMCLXVI.

AN ACT TO ENABLE GENERAL JOHN STEELE AND WILLIAM CALHOUN TO SELL AND CONVEY A CERTAIN TRACT OF LAND THEREIN MENTIONED.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That General John Steele and William Calhoun, or either of them be, and they are hereby authorized to sell and convey, on such terms, for such consideration, and to such person or persons as they shall deem proper, just and right, and most beneficial to the inhabitants of Drumore township, in the county of Lancaster, all that certain tract or parcel of land, situate in the township aforesaid, containing about one hundred acres, more or less, and which was conveyed by Bryan Quin, by deed, dated twenty-sixth December, one thousand seven hundred and sixty-seven, to Robert Long and Samuel M'Connel, then overseers of the poor of said township, and their successors in office, forever after the death of said Bryan Quin; and the moneys arising from the sale thereof, shall be applied towards reimbursing the said township for the expense necessarily incurred by them in supporting the said Bryan Quin and his children.

Approved March 23, 1802. Recorded L. B. No. 8, p. 76.

CHAPTER MMCLXVII.

AN ACT INCORPORATING THE MAGDALEN SOCIETY, IN THE CITY OF PHILADELPHIA.

Whereas, a voluntary association of a number of the citizens of Philadelphia and its neighborhood, under the name and title of the Magdalen society, has for some time existed in the said city, for the purpose of meliorating the distressed condition of those unhappy females who have been seduced

from the paths of virtue and are desirous of returning to a life of rectitude. And whereas the members of this benevolent society have by their memorial to the legislature, prayed to be perpetuated and brought into legal existence, by being incorporated and established by law, with perpetual succession, for the purpose of receiving, holding and improving, in such way as to them may seem proper, all such real and personal estate as the members and other liberal and well disposed persons may give, grant, devise or bequeath to them, for the purposes of this institution: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That William White, Robert Coe, Arthur Howell, Joseph Clerk, Joseph Budd, Jacob Shoemaker, Samuel Powell Griffiths, Benjamin Kite, Jeremiah Paul, George Williams, John Litchworth, Benjamin Price, Edward Garrigues, Samuel Garrigues, junior, Abraham M. Garrigues, Emmor Kimber, Richard Freeman, William Savery, Thomas Attmore, Samuel Smith, John Evans, Robert Ralston, John Inskeep, Christopher Marshall, Charles Marshall, Benjamin Rush, Joseph Cowperthwait, James Rowland, William T. Donaldson, Peter Keyser, Jesse Clever, Thomas Savery, William Garrigues, James Milnor, James Smith, John Clement Stocker, Robert Wharton, Philip S. Physick, Thomas Allibone, Benjamin Say, Ashbel Green, John Cooke, Malcolm M'Donald, Thomas Willing, Isaac T. Hopper, William Young, Joseph Lowns, Levi Hollingsworth, Samuel F. Bradford, Thomas Dobson, Isaac Pearson, Philip S. Bunting, Newberry Smith, Jacob Baker, Samuel Wheler, Ellis Yarnall, Gilbert Gaw, John Wistar, junior, Lawrence Herbert, John Davis, Joseph Simmons, Samuel Harvey, John Perot, William Chancellor, John Hart, Casper Wistar, junior, George Krebsbs, William Rawle, Elias Boudinot, David Lewis, Thomas Hodgson, Joseph Price, John M. Price, Josiah Baldwin, William Curree, William Penrose, Alexander Steel, Thomas Cumpston, John M'Mullin, Joseph Townsend, John Townsend, William Linnard, Richard Price, Daniel Dawson, Evan Griffith, Robert Coe, junior, Jo-

seph Parker Norris, Robert Hare, Thomas Billington, Aaron Mussgrave, junior, Godfrey Haga, William Poyntell, Joseph Huddell, Robert Waln, James Bringham, James Taylor, Peter Browne, James Traquair, John Wagner, James Poupard, Thomas Smith, David Jackson, Charles Swift, Ebenezer Ferguson, James Stokes, John T. Mifflin, Isaac Parish, John Harris, Enoch Wheeler, Thomas Anfly, and their successors, forever be, and are hereby created and made one body politic and corporate in deed and in law, by the name, style and title of "The Magdalen Society of Philadelphia," and by the same name shall have perpetual succession, and are hereby made able and capable in law to have, purchase, receive, take, hold, possess, enjoy and retain, to them and their successors, lands, rents, tenements, hereditaments, stock, goods, chattels and effects of what kind, nature or quality soever, whether real, personal or mixed, by gift, grant, demise, bargain and sale, devise, bequest, testament, legacy, or by any other mode of conveyance or transfer whatever. Provided the yearly income arising from the same and subject to the annual disposition of the said society, shall not exceed the sum of ten thousand dollars, money of the United States, and the same to give, grant, bargain, sell, demise, convey, assure, transfer, alien and dispose of to others, for the whole or any less estate than they have in the same, and also to improve and augment the same in such manner and form as the said society by their by-laws and regulations shall order and direct, and shall and may apply the same, with the rents, issues and profits, income and interest of such estate, and the moneys arising from the sales or alienation of any part thereof, to the uses, ends, intents and purposes of their institution, according to the rules, order, regulation and constitution of their society now in force, or which, according to the provisions hereinafter made, shall from time to time be declared and ordained, touching and concerning the same, as fully and effectually as any natural person or body politic and corporate within this state, by the constitution and laws of the commonwealth can do and perform; and the said society, by the name, style and title aforesaid, shall and may sue and be

sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law and equity within this commonwealth or elsewhere; and also to make, have and use a common seal, and the same to break alter and renew at their pleasure, and also to ordain establish, change and put in execution such by-laws, ordinances and regulations, as shall to them or a majority of such quorum of them (as has already or shall hereafter be directed) seem meet and convenient for the government of the said corporation, not being contrary to the constitution and laws of this commonwealth, and generally to do and execute all and singular the acts, matters and things which to the said corporation shall or may appertain, subject nevertheless to the rules, regulations, restrictions, limitations and provisions herein prescribed and declared.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the officers of the said society shall consist of a president, a vice-president, a treasurer, and a secretary, with such other officers, as the said society shall from time to time hereafter elect and appoint; which president, vice-president, treasurer and secretary, shall be chosen annually, by a majority of votes, of the whole number of members who shall be present at the stated meeting of the society for that purpose, agreeably to the constitution thereof; but in case of the removal, death, resignation or absence from the United States of any or all of the said officers, it shall and may be lawful for the said society to elect another or others in his or their room, to serve until the next annual election.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the first election of officers of the said society shall be at their stated meeting in the second month next, commonly called February; and the said society shall and may hold their future meetings and elections at such place as shall be directed by their by-laws and ordinances.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That until the election of

officers as aforesaid, pursuant to this act, the present officers of the said society, viz. William White, president; Elias Boudinot, vice-president; John Evans, treasurer; and Samuel Harvey, secretary, shall be, and are hereby continued and confirmed; and also that this act shall in all things be construed in the most favorable and liberal manner to and for the said society, in order to effectuate the privileges hereby granted to them, and that no misnomer of said corporation in any deed, will, testament, gift, grant, devise, or other instrument of contract or conveyance, shall vitiate or defeat the same, if the said corporation shall be sufficiently described to ascertain the intent of the party or parties to give, devise, bequeath or assure to or contract with the said corporation hereby created by the name aforesaid; nor shall any of the nonuses of the said privileges hereby granted, create any forfeiture of the same, but the same may be exercised by the said corporation; and notwithstanding any failure to meet at any of the times appointed herein or by the by-laws and ordinances of the said society, to hold their annual or other meetings for elections or other subjects for consideration, the officers then in office shall continue to hold and exercise their respective offices until others shall be duly elected to succeed them at some then future meeting of the said society, which the said corporation is hereby empowered to hold for such purpose.

Approved March 23, 1802. Recorded L. B. No. 8, p. 80.

CHAPTER MMCLXVIII.

AN ACT TO ERECT ALLEGHENY TOWNSHIP, IN THE COUNTY OF ARMSTRONG, INTO AN ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the electors residing within the township of Allegheny, in Armstrong county, shall hold

their elections at the house of George Painter, miller, near the mouth of Cherry Run, in said township.

Approved March 29, 1802. Recorded L. B. No. 8, p. 91.

CHAPTER MMCLXIX.

AN ACT AUTHORIZING THE COMPTROLLER AND REGISTER-GENERALS TO RECEIVE CERTAIN EVIDENCES OF STATE DEBT DUE TO INDIVIDUALS, IN DISCHARGE OF THE SURETIES OF THE FORMER COMPTROLLER-GENERAL, JOHN NICHOLSON.

Whereas, it hath been represented to the legislature, by the representatives of David Jackson and Barnabas Binney, deceased, that certain certificates, being evidences of state debt, due to individuals, were obtained by the said David Jackson, from John Nicholson, the former comptroller-general, whose sureties for the performance of his official duties, they the said David Jackson and Barnabas Binney had been. And whereas representatives of the said David Jackson and Barnabas Binney, are willing to give up the said certificates, provided they shall be exonerated from the obligations given to the state by the said David Jackson and Barnabas Binney, as sureties for the said John Nicholson. And whereas it is deemed expedient that the offer aforesaid should be embraced by the legislature: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the comptroller and register-generals, be and they are hereby authorized to receive from the representatives of David Jackson and Barnabas Binney, deceased, certain certificates of evidence of state debt, due to individuals, amounting, including interest thereon, to thirty-seven thousand and seven hundred and fourteen dollars and sixty-one cents; and the governor, on being certified thereof, shall cause certain bonds or obligations entered into by David Jackson and Barnabas Binney, as sureties for the said John Nicholson, for the faithful performance of his official duties,

to be cancelled. Provided always, that this act shall not be of any force or effect unless it shall appear that the said certificates are the private property of the said John Nicholson, and that the same have not already been paid and redeemed by this state.

Approved March 29, 1802. Recorded L. B. No. 8, p. 92.

CHAPTER MMCLXX.

AN ACT FOR THE RELIEF OF THE ESTATE OF SARAH CALDWELL.

Whereas, in and by a certain act of assembly, passed the fourth day of October, one thousand seven hundred and eighty-eight, entitled, "An Act for the relief of Sarah Caldwell,"⁽¹⁾ it is recited, that it appeared that the said Sarah Caldwell was the holder of certain certificates issued from the office of the comptroller-general, of Pennsylvania, agreeably to the act of the general assembly, passed the first day of March, one thousand seven hundred and eighty-six;⁽²⁾ And whereas it is further recited in and by the said act, That she the said Sarah Caldwell lost the said certificates, and that it was probable they had totally perished: And whereas it was amongst other things provided in and by the said recited act, that the interest accrued and to accrue on the aforesaid certificates, should be paid to the said Sarah Caldwell or her legal representatives, upon certain terms and conditions, which she the said Sarah Caldwell, (now deceased) in her lifetime complied with: And whereas in and by a certain other act of assembly, passed the thirtieth day of September, one thousand seven hundred and ninety-one,⁽³⁾ it was provided, That upon sufficient security being given to indemnify the commonwealth against the said certificates, the comptroller-general should (if required) deliver up the certificates of the United States which were received by the state in exchange for the state certificates mentioned in the above recited acts to the state-treasurer, who was required to subscribe the same in the name of the commonwealth, and in trust for the

legal representatives of the said Sarah Caldwell, to the loan proposed by congress to domestic creditors: And whereas the provisions of the last recited act have been in all things complied with by the representatives of the said Sarah Caldwell: And whereas it is represented by Thomas Leiper, the administrator of said Sarah Caldwell's estate, that there are debts due which cannot conveniently be paid without acquiring a transfer of the capital amount of the said United States certificates: And whereas from the said state certificates mentioned in the act first recited, never having been exhibited by any person whatever, the commonwealth can sustain no possible loss in granting the prayer of the said Thomas Leiper: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the state treasurer, for the time being, shall, if so required, transfer or cause to be transferred, the capital amount of the said United States certificates at present held by him, in trust for the representatives of the said Sarah Caldwell, to the said Thomas Leiper, as administrator of the said Sarah Caldwell's estate, for the use and benefit of the said estate, he the said Thomas Leiper indemnifying the commonwealth against the re-production of the certificates so as aforesaid, said to be lost by the said Sarah Caldwell, in such manner as the governor of this commonwealth shall order and direct.

Approved March 29th, 1802. Recorded in L. B. No. 8, p. 91.

Note (1). Chapter 1381. 13 Statutes at Large, p. 169.

Note (2). Chapter 1202. 12 Statutes at Large, p. 158.

Note (3). Chapter 1591. 14 Statutes at Large, p. 168.

CHAPTER MMCCLXXI.

AN ACT TO ERECT THE TOWN OF BEAVER, IN THE COUNTY OF BEAVER, INTO A BOROUGH, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the town of Beaver, in the county of Beaver, shall be, and the same is hereby erected into a borough, which shall be called the borough of Beaver, and the lines of the out-lots of the reserve tract of land at the mouth of Big Beaver creek, which have been already sold, and the lines of the tract of five hundred acres of land, appropriated by this commonwealth for the use of a school or academy, in Beaver town, together with the in-lots of said town, shall be the bounds and compose the borough of Beaver.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for all persons entitled to vote for members of the legislature, who have resided in said borough six months previously to such election, to meet at the house now occupied by Jonathan Coulter, on the first Monday in May in each year, until a court house shall be erected, after which the elections shall be held therein, and then and there to elect, by ballot, between the hours of twelve and six o'clock in the evening, one reputable citizen residing therein, who shall be styled the burgess of the said borough, and five reputable citizens, to be a town council, and also shall elect as aforesaid, a high constable; but previously to any such election, the inhabitants shall elect three reputable citizens, one of whom shall preside as judge, one act as inspector, and the other discharge the duty of clerk, according to the general election law of this commonwealth, so far as relates to receiving and counting the votes; and shall be subject to the same penalties for malpractices, as by the said election laws are imposed, and the said judge, inspector and clerk, before they enter on the duties of their respective offices, shall take an oath or affirmation, before any justice of the peace in the county of Beaver, to perform the same with fidelity, and shall hold said elections from time to time, as occasion may require, and receive and count the ballots, and declare the persons having the greatest number of votes, to be duly elected; whereupon duplicate certificates thereof shall be signed by the said judge, inspector and clerk, one of which shall be transmitted to each of the persons

elected, and the other filed among the records of the corporation, for their safe keeping; and in case of vacancy, by death, resignation, refusal to accept, or removal from said borough, of any of said officers, the burgess, or in his absence, or inability to act, the first named of the town council, shall issue his precept, directed to the high constable, requiring him to hold an election to fill such vacancy, he giving at least ten days notice, by advertisements set up at four of the most public places in said borough.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the burgess and town council, duly elected as aforesaid, and their successors forever, shall be one body politic and corporate in law, by the name of "The burgess and town council of the Borough of Beaver, in the county of Beaver," and shall have perpetual succession; and the said burgess and town council aforesaid, and their successors forever, shall be capable in law to have, get, receive, hold and possess, lands, tenements, rents, liberties, jurisdictions, franchises and hereditaments, to them and their successors, in fee simple and otherwise, also goods, chattels and other things of what nature and kind soever, not exceeding the yearly value of three thousand dollars, and also to give, grant, let, sell and assign the same lands, tenements, hereditaments, rents, goods and chattels, and by the name aforesaid, they shall be capable in law, to sue and be sued, plead and be impleaded, in any of the courts of this commonwealth, in all manner of actions whatsoever, and to have and to use one common seal, and the same from time to time at their will to change and alter.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person duly elected, whether the burgess or a member of the town council, as aforesaid, having been notified as before directed, shall refuse or neglect to take upon himself the execution of the office to which he shall have been elected, every person so refusing or neglecting shall forfeit and pay the sum of twenty dollars, which fine, and all other fines and forfeitures incurred and made payable in pursuance of this act, or of the

by-laws and ordinances of the town council, shall be for the use of the said corporation.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the burgess, town council and high constable, and each of them, shall take an oath or affirmation, before any justice of the peace of said county, to support the constitution of the United States and of this state, and well and truly to execute the duties of their respective offices in the borough of Beaver, before they enter on the execution thereof, and the certificate of such oath or affirmation shall be recorded in the books of said corporation.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the town council to meet as often as occasion may require, and enact such by-laws, and make such rules, ordinances and regulations, assess, apportion and appropriate such taxes as shall be determined by a majority of the town council necessary to promote the peace, good order, benefit or advantage of said borough, and also to appoint a town clerk, and such other officers as may be deemed necessary by a majority of the town council, but no by-law, rule or ordinance, enacted as aforesaid, shall be repugnant to the constitution or laws of the United States, or of this state; and no person shall be punished for the breach of any by-law or ordinance enacted for the regulation of said borough of Beaver, unless a true copy thereof be set up at three of the most public places in said borough; and no by-law or ordinance shall be carried into operation in less than three weeks after such publication. Provided nevertheless, that no tax shall be laid in any one year on the valuation of taxable property, exceeding one cent in the dollar, unless some object of general utility should be thought necessary; in such case a majority of the taxable inhabitants of said borough, by writing, under their hands shall certify the same to the town council, who shall proceed to assess the same as aforesaid.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the surveyor general is hereby authorized and required to cause to be surveyed and

laid off, at the expense of said corporation, in a convenient manner, a part of the said reserved tract of land, in two separate lots, containing in the whole not more than fifteen acres, on the north side of the in-lots of said town of Beaver, so as to include several streams or springs of water that rise in or pass through said lots, which lots of ground, and the waters thereon, shall be, and they are hereby granted to the inhabitants of said borough for ever, with full liberty and privilege to carry and conduct the waters from said streams or springs to any part of said borough. Provided nevertheless, that the right of private property shall not be in any degree affected or impaired thereby, without the consent of the owner or owners first obtained for that purpose: And provided also, that the said lots shall not be sold or conveyed by the said corporation, but remain for the uses aforesaid.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the burgess, elected agreeably to this act, is hereby authorized and empowered to issue his precept, directed to the high constable, commanding him to collect all taxes assessed from time to time, as aforesaid, and all fines and forfeitures that may become due by virtue of this act, or by the ordinances or regulations of the corporation, and the same to pay over to the treasurer to be appointed by the town council, and to carry into effect whatsoever is enjoined on him for the well ordering and governing the said borough. Provided nevertheless, that it shall and may be lawful to and for the justices of the peace residing in or near the said borough, to do and execute all and every act or acts appertaining to their office, agreeably to the powers conferred on them by the constitution and laws of this commonwealth.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the burgess shall be, and he is hereby required to cause the by-laws, rules, ordinances and regulations, made as aforesaid, to be recorded in a book to be kept for that purpose, and he shall carry the same into full execution, without delay, after the publi-

cation thereof, as directed by this act; and it shall be the duty of the town clerk to attend all meetings of the town council when assembled on business of the corporation, and perform the duty of clerk thereto, and keep and preserve the common seal, records, papers, books and other documents relating to said corporation, and in default he shall be answerable to any person concerned, for all damages, and removed from office by the burgess, on complaint of a majority of the council; and the high constable shall perform all duties on him enjoined by this act, and also by the by-laws and ordinances of the town council, under the like penalties. Provided always, that if any person or persons shall think him, her or themselves aggrieved by anything done in pursuance of this act, he, she or they may appeal to the next court of quarter sessions to be held for the proper county, on giving security according to law, to prosecute his, her or their appeal with effect, which court shall take such order therein as shall be just and reasonable, which order or judgment shall be conclusive against all parties.

Approved March 29, 1802. Recorded L. B. No. 8, p. 95.

CHAPTER MMCCLXXII.

A SUPPLEMENT TO AN ACT, ENTITLED "AN ACT (1) TO REPEAL PART OF AN ACT OF THE ASSEMBLY OF THE LATE PROVINCE OF PENNSYLVANIA, ENTITLED 'AN ACT DECLARING THE RIVER SUSQUEHANNA AND OTHER STREAMS THEREIN MENTIONED PUBLIC HIGHWAYS, FOR IMPROVING THE NAVIGATION OF THE SAID RIVER AND STREAMS, AND PRESERVING THE FISH IN THE SAME.'" (2)

Whereas, the legislature, on the twenty-first day of March, one thousand seven hundred and eighty-three,⁽¹⁾ repealed so much of an act, entitled "An act declaring the river Susquehanna and other streams therein mentioned public highways, for improving the navigation of the said river and streams, and preserving the fish in the same,"⁽²⁾ as declares the Raystown branch of Juniata, from the lower end or limits of John Wilt's plantation to the town of Bedford, in the county of Bedford, to be a public highway, for the purpose of enabling

the said John Wilt to erect certain water works, which now belong to Peter Arnolt. And whereas doubts have arisen in construing the act to which this is a supplement: Therefore, to remedy and defect therein contained,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Peter Arnolt, his heirs and assigns, and they are hereby authorized and empowered to erect, support, and for ever maintain a mill dam, not exceeding the height of three feet, across Raystown branch of Juniata, abutting on his own land, in the township of Colerain, in the county of Bedford, and also to lead off from the same on his own land, so much water of the said creek, as may be found necessary for his water works already erected, or that may be erected on the south bank of the said river. Provided always, that the said Peter Arnolt, his heirs and assigns, in erecting the said dam, or in keeping the same in repair, shall always construct the same with a platform or slope, so as not to injure the navigation of said river, or the property of individuals, and in such manner as that boats and rafts may safely pass over the said slope. And provided always, that the said dam be so constructed as not to prevent the passage of fish up the said stream.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said Peter Arnolt, his heirs and assigns, shall forever maintain and keep in good order, on the body of the said dam, in a convenient part of the same, for rafts to pass over, a complete slope of twenty-five feet in breadth, extending one rod down stream for every foot the dam shall be raised in height, and shall build the dam one foot higher at each side, to convey the water into the slope; and shall also construct the slope one foot and an half higher at each side thereof, to keep the water thereon, until it meets the bed of the bottom of the river for the passage of boats and rafts as aforesaid.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That on the complaint of any person or persons, to the judges of the court of quarter sessions of the said county, it shall and may be lawful for the said judges, to appoint three commissioners to view the said dam, and to compare it with the limitations and provisions herein set forth and enacted, and report to them, at their next sessions, in the said county, the state thereof, which report, on oath or affirmation, if it contain a statement of facts constituting an offence against this act, shall be sufficient ground for the court to direct a bill of indictment to be sent to the grand jury, and upon prosecution to conviction, the said Peter Arnolt, his heirs or assigns, shall be liable to pay a fine, not exceeding two hundred dollars, at the discretion of the court; and the court shall adjudge so much of the said dam to be abated and altered as shall bring the same within the limitations and provisions of this act.

Approved March 29, 1802. Recorded L. B. No. 8, p. 88.

Note (1). Chapter 1025. Passed March 21, 1783. 11 Statutes at Large, p. 102.

Note (2). Chapter 627. Passed March 9, 1771. 8 Statutes at Large, p. 36.

CHAPTER MMCLXXIII.

AN ACT FOR THE RELIEF OF ISAAC WILEY AND JAMES CALHOUN.

Whereas, it appears that Isaac Wiley, of Cumberland county, was wounded on the second day of May, in the year of our Lord one thousand seven hundred and eighty-two, while serving as a militia man, under the command of captain Samuel Leaman, in colonel Samuel Hunter's battalion, defending the frontier inhabitants of Northumberland county against the Indians: And whereas it appears that James Calhoun, now resident in Westmoreland county, was in the month of May, in the year of our Lord one thousand seven hundred and seventy-eight, wounded and taken prisoner by the British, at the Crooked Billet, while serving as a militia man under

captain Robert M'Coy, in colonel Watt's regiment: And whereas it further appears, that the aforesaid Isaac Wiley and James Calhoun, in consequence of the wounds received in defence of this state, as aforesaid, are unable to get a livelihood, and are now in very indigent circumstances, and that neither of them have ever received any pension from this state: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the aforesaid Isaac Wiley and James Calhoun, be, and they are hereby allowed an annuity of forty dollars each, during the remainder of their lives respectively, to be paid half yearly to them or any of their lawful attornies respectively, not interested therein, on warrants drawn by the governor, out of any monies in the treasury of this commonwealth.

Approved March 29th, 1802. Recorded in L. B. No. 8, p. 89.

CHAPTER MMCLXXIV.

AN ACT TO ERECT A SEPARATE ELECTION DISTRICT, IN THE COUNTY OF ALLEGHENY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the parts of Versailles, Elizabeth and Mifflin townships included in the following bounds, viz: Beginning at the mouth of Turtle creek; thence up the same to where the state road crosses said creek; thence along said road, to the line of Westmoreland county; thence by said line, to Youghiogeny river; thence down the same to the mouth of Long run; thence a direct line, across said river to the mouth of Pine run, in Mifflin township; thence up said run, including the south branch of the same, to Matthew Calhoun's mill; thence a direct line to the mouth of Buttermilk run; and thence across the Monongahela river, to the place

of beginning; shall be a separate election district, and called M'Keesport district; and the electors thereof shall hold their general elections at the house now occupied by Adam Johnston, esquire, in M'Keesport, any law or laws to the contrary notwithstanding.

Approved March 29, 1802. Recorded L. B. No. 8, p. 90.

CHAPTER MMCCLXXV.

A SUPPLEMENT TO "AN ACT FOR SECURING THE CITY OF PHILADELPHIA AND THE NEIGHBORHOOD THEREOF, FROM DAMAGE BY GUNPOWDER;" (1) AND ALSO, TO "AN ACT FOR PROVIDING FOR THE INSPECTION OF GUNPOWDER." (2).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the inspector of gunpowder, in and for the port of Philadelphia, and his successors for the time being, shall be, and they are hereby authorized, directed and enjoined, upon the reasonable request and at the proper cost and charges of the owner or occupier of any manufactory of gunpowder, erected or to be erected within the county of Philadelphia, to repair to such manufactory from time to time, so often as the same may be necessary, and there to inspect and mark all gunpowder which shall be manufactured thereat, in the manner directed by the act, entitled "An act for providing for the inspection of gunpowder;"⁽²⁾ and the said inspector and his successors in office shall receive for traveling expenses, at the rate of ten cents for each and every mile, in going and returning from the public magazine, in the said city of Philadelphia, to such manufactory, besides the fees heretofore allowed for the inspection of gunpowder at the said magazine.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the owner or owners of any gunpowder, which shall

be so inspected as aforesaid, to remove and convey such gunpowder immediately from such manufactory to the place of exportation, or on board the ship or vessel intended to export the same; subject to the same rules, regulations and penalties contained in the several acts of assembly, to which this is a supplement.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That no superintendent or keeper of the said magazine, his deputy or other person employed in the said magazine, shall during the time of holding or exercising the said office or employment, be concerned directly or indirectly, in manufacturing, buying or selling gunpowder, in gross or by retail, under the penalty of forfeiting the sum of fifty dollars for every offence, to be recovered with costs of suit, from the person so offending, as debts under twenty pounds are directed by law to be recovered; the one half thereof to the use of the commonwealth, and the other half to the person who shall sue for the same.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the superintendent or keeper of the said magazine shall not for the future, receive any fee or emolument for the delivery of any gunpowder, but shall only charge for the storage of such powder so deposited in the said magazine, any law to the contrary notwithstanding.

Approved March 29, 1802. Recorded L. B. No. 8, p. 93.

Note (*). Chapter 1279. Passed March 28, 1787. 12 Statutes at Large, p. 416.

Note (*). Chapter 1857. Passed April 18, 1795. 15 Statutes at Large, p. 346.

CHAPTER MMCCLXXVI.

AN ACT DISSOLVING THE MARRIAGE BETWEEN DAVID M'KISSICK AND MARGARET HIS WIFE.

Whereas, the said David M'Kissick was duly convicted at Westmoreland, of having committed a rape, and was therefore sentenced to undergo a confinement in the jail and peni-

tentiary house of the city of Philadelphia, for the space of fifteen years; and the said Margaret M'Kissick, hath prayed for a divorce from the said David, who escaped on the way to confinement and hath not since been retaken or surrendered himself: And whereas, the commission of a crime, so wicked, by a married man, justly entitles his injured partner to a divorce, and the law now existing has not expressly provided relief in the premises: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the marriage of the said David M'Kissick and Margaret M'Kissick, be, and the same is hereby declared to be void and annulled, to all intents, constructions and purposes whatsoever, and they are hereby respectively, declared to be separate, set free, and totally discharged from the matrimonial contract, and from all duties and obligations arising therefrom, as fully, effectually and absolutely, to all intents and purposes, as if they had never been joined in matrimony, or by any other contract whatsoever; any law, usage or custom, to the contrary notwithstanding: Provided always, that nothing herein contained, shall be construed to extend to, or affect, or render illegitimate, any child or children, born of the body of the said Margaret during the coverture.

Approved April 2, 1802. Recorded in L. B. No. 8, p. 103.

CHAPTER MMCCLXXVII.

AN ACT FOR ERECTING CERTAIN ELECTION DISTRICTS IN THE COUNTIES OF NORTHAMPTON AND BEDFORD.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Lower Saucon township, in the county of Northampton, shall be a separate election district; and the

electors thereof shall hold their general elections at the house now occupied by Frederick King, in the said township.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That that part of Providence and Colerain township, in Bedford county, comprised within the lines following, viz: Beginning where the line of Hopewell township crosseth the Warrior ridge; thence south along said ridge, to the house now occupied by Robert Culbertson; thence south across the river Juniata, and up the same to the line of Colerain township; thence along Turris mountain, to the Maryland line, so as to include that part of Colerain township, which lies east of the said mountain, shall be a separate election district, to be called the eighth district; and the electors thereof shall hold their general elections at the house now occupied by Daniel Davis, in the township of Providence aforesaid.

Approved April 2, 1802. Recorded L. B. No. 8, p. 108.

CHAPTER MMCLXXVIII.

AN ACT IN AID OF THE CONGREGATION OF BANGOR CHURCH, IN
CARNARVON TOWNSHIP, IN THE COUNTY OF LANCASTER.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the minister, church wardens and vestry men, of the Protestant Episcopal church of Bangor, Carnarvon township, in the county of Lancaster, in the commonwealth of Pennsylvania, to vest a certain legacy of one hundred pounds, bequeathed to said church by a certain Nathan Evans, late of said township, in stock of the United States or of this state, or any other safe and productive fund that the said congregation may think proper and direct, and to apply the interest arising therefrom annually, in aid of their voluntary contributions, towards the support of the officiating minister of said church for ever.

Approved April 2, 1802. Recorded in L. B. No. 8, p. 108.

CHAPTER MMCCLXXIX.

AN ACT AUTHORIZING EXECUTORS AND ADMINISTRATORS, IN CERTAIN CASES, TO CONVEY LANDS SOLD BY THEIR DECEDENTS BY ORDER OF ORPHANS' COURT.

Whereas, it sometimes happens, that administrators who sell real estates of intestates, pursuant to an order of orphans' court, die before any conveyance is made, and that inconveniences have been thereby experienced by purchasers: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That in all cases hereafter where a sale shall be duly made according to law, by virtue of an order of orphans' court, enabling the administrator of any intestate to make sale of the real estate of such intestate or any part thereof, and the administrator selling the same, under such order, shall happen to die before a deed of conveyance is made to the purchaser or purchasers, it shall be lawful to and for an administrator "of the goods not administered on" of such intestate, when such administration shall be granted to and for the executor or administrator of the person or persons so dying, to make and execute to the purchaser or purchasers of any such estate, a deed or deeds of conveyance for the same.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That in cases where a sale hath been heretofore duly made, in pursuance of an order of orphans' court, of the real estate of any intestate, and the execution of the necessary deed or deeds of conveyance hath been prevented by the death of the party legally authorized to make sale, and so making sale thereof, it shall be lawful to and for the administrator, "of the goods not administered on" of such intestate, when such administration shall be granted, for the executors or administrators of such party, to make

and execute to the purchaser or purchasers the necessary deed or deeds of conveyance, for the estate so sold as aforesaid.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That in all cases where any administrator or administrators, having sold lands by order of orphans' court, as aforesaid, shall die intestate, not having executed a conveyance thereof, and no person shall within three months thereafter, be appointed administrator "of the goods not administered on," or apply and be appointed to administer the estate of such administrator or administrators so dying as aforesaid, it shall thereupon be the duty of the orphans' court of the proper county, on petition to be presented by the purchaser, setting forth the original proceedings, under the order of court, to direct the sheriff of the county, for the time being, to make and execute the necessary deed or deeds of conveyance to such petitioner.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That every deed made in pursuance of, and agreeably to the provisions of this act, shall vest the property therein described in the grantee, as fully and effectually as if the same had been made by the person or persons who may hereafter sell or heretofore have sold any such estate circumstanced as aforesaid.

Approved April 2, 1802. Recorded L. B. No. 8, p. 111.

CHAPTER MMCLXXX.

AN ACT TO ERECT THE TOWNSHIP OF BRECKNOCK AND PART OF THE TOWNSHIP OF COCALICO, IN THE COUNTY OF LANCASTER, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the township of Brecknock and all that part of the township of Cocalico, beginning at the township line, above Michael Haag's mill; thence past said mill in Cocalico township, and down the great

road past Jacob Hagey's tavern; from thence past Miller's tavern and Wright's tavern, to the line of Earl township, in the county of Lancaster; are hereby erected into a separate election district, to be called the ninth district; and the electors thereof shall hold their elections at the house now occupied by Jacob Stahley, in Reamstown, in the township of Cocalico, anything in any law to the contrary notwithstanding.

Approved April 2, 1802. Recorded L. B. No. 8, p. 110.

CHAPTER MMCLXXXI.

AN ACT TO APPOINT NEW TRUSTEES FOR MIFFLIN COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That John Bratton, Doctor Ezra Doty, George McClelland, Robert Sterret, Thomas Torbutt and James Banks, are hereby appointed trustees in and for the county of Mifflin; and are hereby invested with like powers and authorities in every matter and thing whatsoever, that of right belongs to any trustee or trustees, appointed for the county of Mifflin, by any act heretofore enacted.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That so much of the different acts of assembly as relate to the appointment of trustees for said county of Mifflin, be, and the same are hereby repealed, annulled and made void, anything contained in any former acts notwithstanding.

Approved April 2d, 1802. Recorded L. B. No. 8, p. 103.

CHAPTER MMCLXXXII.

AN ACT TO DISSOLVE THE MARRIAGE CONTRACT BETWEEN JOHN KUNIUS AND BATHSHEBA HIS WIFE, LATE BATHSHEBA TROTH.

Whereas, John Kunius of Germantown, in the county of Philadelphia, by his petition to the legislature hath represented that on the twenty-fifth day of July, one thousand eight hundred, he was lawfully joined in marriage, with Bathsheba Troth his present wife; that it hath since appeared that the said Bathsheba, previously to any connection or acquaintance between her and the said John, was got with child and was pregnant at the time of said marriage; of which child the said Bathsheba was delivered, on the twenty-second day of September, in the same year; and now stands charged by the grand inquest of the commonwealth, enquiring for the county of Philadelphia, with having on the said twenty-second day of September, killed and murdered the said infant; and that on the twenty-seventh day of the said month of September, the said Bathsheba, (probably to avoid the punishment due to the enormity of her crime) deserted the house of the said John, nor hath he since seen her, neither doth he know precisely where she is; but believes her to be secreted somewhere in her native state of New Jersey: And whereas, from sundry documents of the supreme court of this commonwealth, dated January the second, Anno Domini, one thousand eight hundred and two, the foregoing statement of facts, hath been satisfactorily proved to the legislature; and all the judges of the said court have specially recommended an application for redress, by the said John to the legislature, in the following words, to wit: The court are clearly of opinion, that no relief can be granted the petitioner, within the provisions of the act of assembly; at the same time, the circumstances of the case are of so peculiar and distressing a nature, that they conceive it a very proper occasion, for the interposition of the legislature, and recommend the petitioner to prefer his petition for relief to the legislature, in order that the only relief which can

constitutionally be granted, may be afforded: And whereas it is but just and reasonable, that an injured and innocent person, should be released from all legal ties, with a person of such depravity of mind, and so abandoned and destitute of all the sympathetic feelings of human nature: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the marriage of the said John Kunius and Bathsheba Kunius, be, and the same is hereby declared to be void and annulled, to all intents and purposes whatsoever; and they are hereby respectively declared to be separate, set free, and totally discharged from the matrimonial contract, and from all duties and obligations arising therefrom, as fully, effectually, and absolutely, as if they had never been joined in matrimony; any law, usage or custom, to the contrary notwithstanding.

Approved April 2, 1802. Recorded in L. B. No. 8, p. 106.

CHAPTER MMCLXXXIII.

A FURTHER SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO ESTABLISH THE JUDICIAL COURTS OF THIS COMMONWEALTH." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the president and judges of the court of common pleas, in the county of Berks, shall be authorized, and they are hereby required, to hold adjourned courts of common pleas in the said county, for trying and arguing civil causes, to continue each one week, to wit: On the first Monday in March; on the first Monday in June; and on the second Monday in December, annually.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue in

force until the first day of April, Anno Domini one thousand eight hundred and five.

Approved April 2, 1802. Recorded L. B. No. 8, p. 111.

Note (1). Chapter 1575. Passed April 13, 1791. 14 Statutes at Large, p. 110.

CHAPTER MMCLXXXIV.

AN ACT TO VEST IN THE TRUSTEES OF THE ROMAN CATHOLIC SOCIETY OF ST. MARY'S CHURCH, IN THE CITY OF PHILADELPHIA, FOR THE BENEFIT OF THE POOR OF SAID SOCIETY, SUCH PART OF THE ESTATE OF PETER BONAVENTURE'S D'ARTOIS, AS IS DECLARED TO HAVE ESCHATED TO THE COMMONWEALTH.

Whereas, Peter Bonaventure d'Artois, late of the township of the Northern Liberties, in the county of Philadelphia, was in his lifetime seized in fee, of and in a certain messuage and lot of ground, situate in the township aforesaid, of the value of about three hundred and fifty pounds, which said messuage and lot of ground, by a nuncupative will, made in the presence of James Valliant and Peter Belsterling, he the said Peter Bonaventure d'Artois, gave and devised to the Roman Catholic church, known by the name of St. Mary's church, in the city of Philadelphia for the use of the poor of the said church: And whereas the said property is declared to have escheated to the commonwealth, and in order to restore the part of said estate so escheated, and remit the same to the trustees aforesaid, for the charitable uses and intents of the said deceased: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all the right, title, interest, property, claim and demand whatsoever, which the commonwealth has in, to, and out of such part of the estate of Peter Bonaventure d'Artois which has escheated to the commonwealth, shall be, and the same is hereby granted, conveyed, assigned and set over in trust, to John Rosseter, Patrick Linehan, Nicholas Esling, John Rudolph, John O'Hara, Michael Lacy, Joseph Snyder, John Carrell, Thomas Shortall and

James Ryan, trustees of St. Marys' church, in the city of Philadelphia, and their successors for ever, for the benefit of the poor of the said society, conformably to the humane intentions of the said Peter Bonaventure d'Artois, as expressed in the nuncupative will of the deceased, remaining in the register's office for the city and county of Philadelphia.

Approved April 2d, 1802. Recorded in L. B. No. 8, p. 114.

CHAPTER MMCCLXXXV.

AN ACT AUTHORIZING THE GOVERNOR TO DISCHARGE THE DEBT DUE FROM THIS COMMONWEALTH TO THE BANK OF PENNSYLVANIA. AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be, and he is hereby authorized to transfer so much of the six per cent. stock of the United States, the property of this state, as will be necessary to discharge the first instalment of the loan of one hundred thousand dollars, which will be due on the thirteenth day of April next, to the Bank of Pennsylvania, together with the interest thereon, and also so much of the said stock as will be required to discharge the remaining instalment of the said loan, though it shall not be due; provided such transfer be made at not less than at the rate of one dollar for every dollar of such stock which remains unredeemed.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the president, directors and company of the Bank of Pennsylvania, be, and they are hereby authorized to accept the transfer of the said stock, in discharge of the respective instalments of the said loan, or either of them, if they shall consider it consistent with the interest of the institution, anything in the act⁽¹⁾ incorporating the said bank to the contrary notwithstanding.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said president, di-

rectors and company be, and they are hereby authorized to purchase and sell again, any stock of the United States which they may believe most beneficial to the said bank, provided the amount of such stock shall not at any one time exceed one hundred thousand dollars, exclusive of the stock now held by them, anything in the act incorporating the said company to the contrary notwithstanding.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if the said president, directors and company, should not agree to accept the transfer of the said stock, at the rate aforesaid, in discharge of said loan, the governor is hereby authorized to negotiate with the said president and directors an extension of the time of payment of the first instalment of said loan for the term of two years. Provided, that nothing herein contained shall be so construed as to prevent the commonwealth from discharging the said instalment at any time previous to the expiration of the said two years.

Approved April 2, 1802. Recorded L. B. No. 8, p. 109.
Note (1). Chapter 1667. 14 Statutes at Large, p. 365.

CHAPTER MMCCLXXXVI.

AN ACT TO PROVIDE FOR THE ELECTION OF REPRESENTATIVES OF THE PEOPLE OF THIS STATE IN THE CONGRESS OF THE UNITED STATES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That for the purpose of electing representatives of the people of this commonwealth, to serve in the House of Representatives in the Congress of the United States, this state shall be divided into eleven districts, as follows: The city of Philadelphia, and the counties of Philadelphia and Delaware, shall be a district, and shall elect three members; the counties of Bucks, Montgomery, Northampton, Wayne and Luzerne, shall be a district, and shall

elect three members; the counties of Chester, Berks and Lancaster, shall be a district, and shall elect three members; the counties of Dauphin, Cumberland, Mifflin and Huntingdon, shall be a district, and shall elect two members; the counties of Northumberland, Lycoming and Centre, shall be a district, and shall elect one member; the counties of York and Adams shall be a district, and shall elect one member; the counties of Franklin and Bedford shall be a district, and shall elect one member; the counties of Westmoreland, Somerset and Armstrong, shall be a district, and shall elect one member; the counties of Fayette and Greene shall be a district, and shall elect one member; the county of Washington shall be a district, and shall elect one member; the counties of Allegheny, Beaver, Butler, Crawford, Mercer, Venango, Warren and Erie, shall be a district, and shall elect one member.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the election of representatives, agreeably to the constitution of the United States and the direction of this act, shall be held by the citizens of this state qualified to vote for members of assembly, on the second Tuesday of October next, and on the second Tuesday of October, every second year thereafter, until an enumeration of the inhabitants of the United States shall be taken agreeably to the constitution and laws of the said United States, at the same places respectively, in the same manner, and under the care and regulation of the same officers as is provided in and by the several acts of assembly for the regulation of the general elections of this state, of which elections public notice shall be given by the sheriffs of the several counties, at least thirty days before the said election.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That every person who shall be guilty of any neglect or abuse of this act, or of any of the said acts of assembly for the regulation of elections, at any election to be held in pursuance of this act, shall be prosecuted and punished in the same manner as if he had been guilty of the like neglect or abuse in the election of members of the legislature of this state.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the judges of the election in the city of Philadelphia, and in each county erected into a separate district, after having formed the return of the whole election in the said city and counties respectively, in such manner as is by law directed, shall within six days cause said returns to be delivered to the sheriff of the said city and counties respectively, and shall also cause a duplicate thereof, signed and sealed in the same manner, to be deposited in the office of the prothonotaries of said city and counties respectively.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the judges of the elections of each of the following counties, after having formed the returns of the whole election in their counties respectively, in such manner as is by law directed, shall send the same by one or more of their number, to the place hereafter mentioned, within the district of which such county is a part, when the judges so met shall compare and cast up the several returns, and shall execute, under their hands and seals, one general and true return of the whole district, that is to say, the judges of the district composed of the city and county of Philadelphia and the county of Delaware, shall meet at the county court house in the city of Philadelphia; the judges of the district composed of the counties of Bucks, Montgomery, Northampton, Wayne and Luzerne, shall meet at the house now occupied by John Leonard, innkeeper, in the town of Bethlehem, in the county of Northampton; the judges of the district composed of the counties of Chester, Berks and Lancaster, shall meet at the house now occupied by Everet M'Clees, innkeeper, in Morgantown, in the county of Berks; the judges of the district composed of the counties of Dauphin, Cumberland, Mifflin and Huntingdon, shall meet at the house now occupied by William Sterret, in Mifflintown, in the county of Mifflin; the judges of the district composed of the counties of Northumberland, Lycoming and Centre, shall meet at the house now occupied by Andrew Albright, in Levisburgh, in the county of Northumberland; the judges of the district composed of the counties of York and

Adams, shall meet at the house now occupied by Peter Eskes, in Abbotstown, in the county of Adams; the judges of the district composed of the counties of Franklin and Bedford, shall meet at the house now occupied by Jacob Four, in M'Connelsburg, in the county of Bedford; the judges of the district composed of the counties of Westmoreland, Somerset and Armstrong, shall meet at the house of George Keltz, in Ligonía valley, in the county of Westmoreland; the judges of the district composed of the counties of Fayette and Greene, shall meet at the house now occupied by Thomas Clare, in Fayette county; the judges of the district composed of the counties of Allegheny, Beaver, Butler, Crawford, Mercer, Venango, Warren and Erie, shall meet at the house now occupied by Adam Funk, in the county of Butler, on the third Tuesday of October next, and on the third Tuesday of October biennially thereafter, during the continuance of this act, and within the space of ten days after the said election, the judges of each respective district, so convened, shall cause the said general return to be delivered to the sheriff of the county in which they shall be thus convened, and shall also cause a duplicate thereof, signed and sealed in the same manner, to be deposited in the office of the prothonotary of such county.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That such sheriff, having received the said return, shall within thirty days after said election, deliver or safely transmit the same to the governor, who shall thereupon declare by proclamation, the name of the person or persons to him returned as duly elected in each respective district, and shall thereafter, as soon as conveniently may be, transmit the returns so to him made, to the House of Representatives in the Congress of the United States.

CHAPTER MMCLXXXVII.

AN ACT TO COMPLETE THE BENEVOLENT INTENTION OF THE LEGISLATURE OF THIS COMMONWEALTH, BY DISTRIBUTING THE DONATION LANDS TO ALL WHO ARE ENTITLED THERETO.

Whereas, some of the late officers and soldiers belonging to the Pennsylvania line, in the Revolutionary War, have not received their donation lands. And whereas it hath been represented that amongst the lots in the tenth donation district, which the owners have released as being in the state of New York and for which they have received other lots in lieu thereof, many are still in Pennsylvania, and also that a number of the lots may yet be found within the bounds of the donation surveys, not numbered or returned as donation lots, nor otherwise appropriated: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be the duty of the land officers to ascertain the number of donation lots returned of each description, which yet remain undrawn and not otherwise appropriated; or which having been drawn, have not been applied for in the time prescribed by law; and cause numbers corresponding with each lot of the several descriptions, according to the quantity of land allowed to each grade of officers, non-commissioned officers and privates, to be made on separate pieces of paper, as nearly of the same size as may be, which pieces of paper shall be put carefully into small boxes, equal to the number of different grades which may be yet unsupplied; and on application of each person for their respective donation, the said land officers, after being satisfied with the justice of his or her claim, shall cause the box containing the tickets representing the quantity of land to which such applicant may be entitled, to be shook, so as to mix the said tickets or pieces of paper, and shall draw, or cause to be drawn therefrom, one or more of the numbers so deposited as may be

necessary to complete the quantity which such applicant may be entitled to; and in like manner to proceed on each and every application, the person first applying, to be entitled to the first draft, and immediately after drawing, to proceed to issue a patent or patents for the respective lots so drawn, free of all expense except the enrolling fees. Provided always, that no lot to be drawn or patent to be issued in pursuance of this act shall interfere with or defeat any prior title which may have been acquired under the authority of any former law of this commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the surveyor general be, and he is hereby authorized to direct a survey to be made at the expense of the state, in such manner as to ascertain with accuracy, all lots within the tenth donation district, which have been reported as having fallen into the state of New York, and as such released; and which may still be within the state of Pennsylvania, or in the triangle purchased from Congress, also to procure returns of all other lots which are indicated within the general drafts of any of the donation districts, and which are not otherwise appropriated; and also to divide large into smaller lots; which said released lots, or other lots, as soon as the surveys of them are made and returned, shall be made use of to supply the boxes mentioned in the foregoing section with a sufficient number of tickets to carry the design of this act completely into effect.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the board of property be, and they are hereby authorized to exercise the same powers relative to donation lands, which they are by law authorized to exercise in cases respecting other land within this commonwealth; and in all cases of difficulty or dispute between applicants under this law, and on the validity and propriety of the claim of each and every applicant, they are authorized to make the necessary enquiry, and decide.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That in order to enable the land officers, or board of property, to execute the duties imposed

upon them by this act, it shall be the duty of the secretary of the commonwealth, to deliver to the secretary of the land office and surveyor general, all books, papers, drafts or documents now in his office, relative to donation lands, returns of survey, general or connected drafts, maps or charts so received, to be deposited in the surveyor general's office, and all others of the said papers, books or documents, to be deposited in the office of the secretary of the land office; and when the whole donations shall be completely effected, the general drafts to be deposited in the rolls office, agreeably to the directions of a former law.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That upon satisfactory proof being made to the board of property, by the widow, heir or heirs of any deceased officer or soldier, it shall be the duty of said board to direct a patent or patents to issue in the usual way, in favor of such widow, heir or heirs, for such donation lands, and on the same conditions as the officer or soldier would, if living, be entitled to.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That no application for donation lands shall hereafter be admitted; and that no patent for such land, already applied for, shall be granted, unless such patent is demanded within one year after the passing of this act.

Approved April 2, 1802. Recorded L. B. No. 8, p. 104.

CHAPTER MMCLXXXVIII.

AN ACT TO SETTLE THE CONTROVERSIES ARISING FROM CONTENTENDING CLAIMS TO LANDS WITHIN THAT PART OF THE TERRITORY OF THIS COMMONWEALTH, NORTH AND WEST OF THE RIVERS OHIO AND ALLEGHENY, AND CONEWANGO CREEK.

Whereas, by the ninth section of an act of the general assembly, passed the third day of April, one thousand seven hundred and ninety-two,⁽¹⁾ entitled "An act for the sale of the vacant lands within this commonwealth," it is enacted that no warrant or survey to be issued or made in pursuance of the

said act, for lands lying north and west of the rivers Ohio and Allegheny, and Conewango creek, shall vest any title in or to the lands therein mentioned, unless the grantee has, prior to the date of such warrant, made or caused to be made, or shall within the space of two years next after the date of the same, make or cause to be made an actual settlement thereon, by clearing, fencing and cultivating at least two acres for every hundred acres contained in one survey, erecting thereon a messuage for the habitation of man, and residing, or causing a family to reside thereon for the space of five years next following his first settlement of the same, if he or she shall so long live; and in default of such actual settling and residence, it shall and may be lawful to and for this commonwealth to issue new warrants to other actual settlers, for the said lands, or any part thereof, reciting the original warrants, and that such actual settlements and residence have not been made in pursuance thereof, and so as often as defaults shall be made for the time and in the manner aforesaid, which new grants shall be under and subject to all and every the regulations contained in this act; provided that if any such actual settler, or any grantee in any such original or succeeding warrant, shall by force of arms of the enemies of the United States, be prevented from making such actual settlement, or be driven therefrom, and shall persist in his endeavors to make such actual settlement as aforesaid, then in either case, he or his heirs shall be entitled to have and hold the said lands in the same manner as if the actual settlement had been made and continued: And whereas applications have been made and are making to the land office for new warrants, in cases where the applicants are of opinion that the original warrantees are barred from claiming title by their own default, in not complying with the conditions required in the section above recited; and although it appears from the act aforesaid that the commonwealth regarded a full compliance with those conditions of settlement, improvement and residence, as an indispensable part of the purchase or consideration of the lands so granted, yet as much confusion might arise if the state were to continue to grant lands which in consequence of former

acts may have become the property of others: And whereas it appears on the one hand, by the representations of the agents of certain companies called the Holland company and the Population company, to the legislature of this commonwealth, that they complain of certain lawless men having intruded on the lands within the claim of said companies, which claim appears to extend over the greater part of the territory of this commonwealth, situate north and west of the rivers Ohio and Allegheny, and Conewango creek, praying for the interposition of the legislature, and stating that the claims of the said companies arise from warrants and patents duly applied for and fairly issued and granted by the officers of the land office of this commonwealth, under the provisions of the act aforesaid; and on the other hand, it appears that petitions and representations have also been made to the legislature of this commonwealth, by and on the part of a number of persons calling themselves actual settlers, and stating that they have settled and improved a considerable part of the land lying within the claims of the aforesaid companies, in consequence of the act aforesaid inviting them so to do; that in most instances, when they began their improvements, the lands were, to the best of their knowledge, vacant and unoccupied, and that since their settlement they have been much harrassed and threatened by the agents of the companies aforesaid. And whereas it is indispensably necessary that the peace of that part of the state should be preserved, and complete justice done to all parties interested, as speedily and effectually as possible: And whereas it hath been intimated to the legislature, that from the present distracted and agitated state of the public mind between those conflicting claims in that part of the state, a fair and impartial trial cannot be obtained where so many persons are directly or indirectly interested in the event of the decision: And whereas the companies aforesaid, by their application to the supreme court of this commonwealth, for a mandamus to compel the secretary of the land office to complete their titles, did endeavor to put the question between them and this commonwealth fairly to issue before the judiciary. And whereas it is just and proper that the

questions both of law and of fact, arising under the act aforesaid, should be fully, fairly and speedily heard and decided, and the validity of all those titles that have been issued under certain certificates of justices of the peace within the territory aforesaid, known by the name of prevention certificates, determined, as well for the direction of the officers of the land office, on behalf of this commonwealth, as for settling the existing disputes between such grantees as have omitted or neglected to make the settlements, improvements and residence enjoined by the act aforesaid, and the persons actually in possession of the same lands, and claiming under the provisions of the same act: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That at some time and place (not exceeding three months from the first day of the month of April of the present year) as shall be most convenient to the judges of the supreme court of this commonwealth, or the majority of them, it shall be the duty of the said judges, and they are hereby enjoined and required to meet together and devise some method, either by means of a feigned issue or otherwise, as in their judgment shall seem best, of bringing before a court and jury, to be holden as hereinafter is directed, the following questions respecting the claims to land within that part of the territory of this state north and west of the rivers Ohio and Allegheny, and Conewango creek, to wit: Are warrants heretofore granted under the act of the third day of April, one thousand seven hundred and ninety-two⁽¹⁾, valid and effectual in law, against this commonwealth, so as to bar this commonwealth from granting the same land to other applicants under the act aforesaid, in cases where the warrantees have not fully and fairly complied with the conditions of settlement, improvement and residence required by the said act, at any time before the date of such warrants respectively, or within two years after? Are the titles that have issued from the land office under the act aforesaid, whether by warrant or patent, good and effectual in law against this commonwealth,

or any person claiming under the act aforesaid, in cases where such titles have issued on the authority, and have been grounded upon the certificates of two justices of the peace, usually called prevention certificates, without any other evidence being given of the nature and circumstances of such prevention, whereby, as is alleged, the conditions of settlement, improvement and residence required by the said act, could not be complied with? And so soon as the said judges have devised the form in which the questions above stated, shall be brought to a hearing and decision before a court and jury as aforesaid, they shall transmit the same to the governor of this commonwealth, whose duty it shall be, with the assistance of the attorney general of this commonwealth, to carry the same into effect without delay.

Section II. (Section II, P. L.) Be it enacted by the authority aforesaid, That for the purpose of hearing and deciding on the questions aforesaid, and the facts relating thereto, a jury shall be summoned according to the method to be appointed by the judges aforesaid, consisting of the usual number of disinterested persons, inhabitants of the counties of Northumberland or Lycoming, which jury shall be summoned, impanelled and sworn, or affirmed, at the court house at Sunbury, in the said county of Northumberland, at such time as to the said judges, or a majority of them, shall be most convenient, provided the same be not deferred beyond the first Monday in December next; at which time and place the judges of the supreme court aforesaid, or the majority of them, shall meet for the purpose of hearing and trying the questions aforesaid, and the facts relating thereto, in conjunction with the said jury, in the usual manner; at which trial and hearing it shall be competent to the said jury, under the constitutional direction of the court, to decide upon the law and upon the facts, and if they think fit, to bring in a general verdict thereon; and it shall also be competent to any person, party in the controversy, to offer evidence of the nature and circumstances of the prevention certificates aforesaid, and of the circumstances of the country at the time to which the said certificates relate, and also of every other fact tending to illustrate the questions

aforesaid, or to induce a full investigation and fair decision thereon, which the court shall consider as evidence, competent to be offered according to the usual rules of law.

Section III. (Section III, P. L.) Be it enacted by the authority aforesaid; That it shall be the duty of the said judges, at their meeting aforesaid, within three months from the first day of April next, to devise and direct in what manner and under what circumstances parties shall be admitted to the said suit, and what notice or notices shall be respectively given relating to the same; and they shall have power also to direct the secretary of the land office to attend at the said trial, with such books, papers and documents as they may think fit to specify, or he may deem material to be produced and consulted thereat; and it shall be the duty of the said judges to certify the verdict of the jury and the judgment of the court on the trial aforesaid, to the governor of this commonwealth, previous, to the meeting of the next legislature.

Section IV. (Section IV, P. L.) And in order to prevent the confusion that would arise from issuing different warrants for the same land, and to prevent law suits in future respecting grants from the land office under the aforesaid act of April the third, one thousand seven hundred and ninety-two⁽¹⁾. Be it enacted by the authority aforesaid, That from and after the passing of this act, the secretary of the land office shall not grant any new warrant for land which he has reason to believe hath been already taken up under a former warrant, but in all such cases he shall cause a duplicate copy of the application to be made, on which duplicate copy he shall write his name, with the day and year in which it was presented, and he shall file the original in his office, and deliver the copy to the party applying. Provided always, that on every application so to be made and filed, shall be certified on the oath or affirmation of one disinterested witness that the person making such application, or in whose behalf such application is made, is in actual possession of the land applied for, and such certificate shall mention also the time when such possession was taken, and the application so filed in the secretary's office shall be entitled to the same force and effect, and the same

priority in granting warrants to actual settlers, as though the warrants had been granted at the time when the applications were filed; and should the decision of the court and jury, at the trial aforesaid, be in favor of the claims of the actual settlers, the secretary of the land office shall proceed to grant the warrants, upon the purchase money being paid, according to the priority of the applications filed in his office.

Section V. (Section V, P. L.) Be it enacted by the authority aforesaid, That it shall be lawful for the governor of this commonwealth to appoint not more than two counsel learned in the law, to assist the attorney general at the said trial, on the part of this commonwealth.

Approved April 2, 1802. Recorded L. B. No. 8, p. 115.
Note (*). Chapter 1624. 14 Statutes at Large, p. 232.

CHAPTER MMCCLXXXIX.

AN ACT TO EMPOWER THE TRUSTEES OF CRAWFORD COUNTY, TO
ERECT A SUITABLE BUILDING FOR A SEMINARY OF LEARNING IN
THE TOWN OF MEADVILLE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That David Meade, James Gibson, Roger Alden, Joseph Stockton, Thomas R. Kennedy, Samuel Dale, junior, and Patrick M'Gill, be, and they are hereby constituted and appointed trustees for a public seminary of learning, to be erected in the town of Meadville, in Crawford county, and that they, or a majority of them, be, and they are hereby empowered to take and receive all and every grant or grants of land, or any other estate, real or personal, which have or may be made, granted or given to them, or to the former trustees, for the use of said seminary, and to take to themselves, in fee simple, or otherwise, any conveyance or assurance, in trust for the same, and to ask, demand, and to sue for and recover all such sum or sums of money, as may have at

any time been, or may be hereafter subscribed to and for said seminary of learning.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said trustees, and every of them, shall, before they enter on the duties of their office, give bond, with two sufficient sureties, for the use of the said seminary, to the commissioners of the county, and their successors, in the sum of six hundred dollars each, for the faithful performance of the duties enjoined on them by this act.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said trustees, or a majority of them, shall take to themselves, in fee simple, any assurance or conveyance of the lot or piece of ground, in trust, for the use of said seminary, and thereon shall erect or cause to be erected, a suitable house for such public seminary, provided the expense of erecting the same do not exceed the sum of six hundred dollars; and shall employ a teacher or teachers for said seminary, and shall pay him or them any sum or sums not exceeding the yearly interest arising from the funds of said institution.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall, from time to time, lay out or place in some productive fund such sum or sums of money as they shall from time to time receive in pursuance of this act; and the said trustees shall once in every year, exhibit their accounts to the grand jury of the county for their inspection and approbation.

Approved April 2, 1802. Recorded L. B. No. 8, p. 98.

CHAPTER MMCCXC.

AN ACT TO ANNEX THE TOWNSHIP OF DUNBAR, IN FAYETTE COUNTY, TO THE FOURTH ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That from and after the passing of this act, the township of Dunbar, in the county of Fayette, shall be annexed to the fourth district; and the electors thereof shall hold their general elections at the school house in Connelssville.

Approved April 5, 1802. Recorded L. B. No. 8, p. 123.

CHAPTER MMCCXCI.

AN ACT AUTHORIZING THE COMPTROLLER-GENERAL AND REGISTER-GENERAL, TO LIQUIDATE AND SETTLE CERTAIN EXPENSES INCURRED UNDER THE ACT, ENTITLED "AN ACT SUPPLEMENTARY TO AN ACT, ENTITLED "AN ACT TO PREVENT INTRUSIONS ON LANDS WITHIN THE COUNTIES OF NORTHAMPTON, NORTHUMBERLAND AND LUZERNE, AND FOR OTHER PURPOSES THEREIN MENTIONED." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the comptroller-general and register-general be, and they are hereby authorized to liquidate and settle such incidental expenses as were necessarily incurred in carrying into effect the act, entitled "An Act supplementary to an act, entitled 'An Act to prevent intrusions on lands within the counties of Northampton, Northumberland and Luzerne;' passed February the sixteenth, one thousand eight hundred and one⁽¹⁾; and also that the comptroller and register-generals settle and adjust certain accounts of the commissioners appointed pursuant to an act, entitled "An Act offering compensation to the Pennsylvania claimants of certain lands within the seventeen townships in the county of Luzerne, and for other purposes therein mentioned⁽²⁾;" for expences by them necessarily incurred in the business of their commission, and for such other expences, properly vouched, as they are reasonably entitled to, under the said recited act; and that the governor be, and he is hereby authorized to draw

his warrant upon the state treasurer, for the amount of the sums so as aforesaid liquidated and settled.

Approved April 5th, 1802. Recorded in L. B. No. 8, p. 122.

Note (*). Chapter 2182. 16 Statutes at Large, p. 542.

Note (*). Chapter 2052. 16 Statutes at Large, p. 245.

CHAPTER MMCCXCII.

AN ACT TO PROVIDE FOR THE REMOVAL OF THE SEAT OF JUSTICE IN WAYNE COUNTY, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the seat of justice for Wayne county shall be transferred from Bethany to Milford; and the courts for the county of Wayne shall be held at Milford aforesaid, for three years, and no longer. Provided, that John Biddis, John Brink, and others interested in the removal, shall, at their own proper costs and charges, provide suitable and convenient buildings for a temporary court house, prison, and office for the safe keeping of the public records of said county, in the town of Milford.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the act, entitled "An act to authorize the removal of the seat of justice in Wayne county, and for other purposes," passed the first day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ be, and the same is hereby suspended for the term of three years, as aforesaid.

Approved April 5, 1802. Recorded L. B. No. 8, p. 124.

Note (*). Chapter 2047. 16 Statutes at Large, p. 237.

CHAPTER MMCCXCIII.

AN ACT TO ENLARGE THE MARCH AND DECEMBER TERMS IN THE SUPREME COURT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the March and December terms in the supreme court of this commonwealth, shall respectively commence on the first Mondays of the said months; and the term of March shall continue three weeks; and the term of December shall continue four weeks; and the first and last day of the said terms, respectively, shall be return days thereof.

Approved April 5, 1802. Recorded L. B. No. 8, p. 120.

CHAPTER MMCCXCIV.

AN ACT TO AUTHORIZE MARCUS HULINGS TO ERECT A TOLL BRIDGE OVER FRENCH CREEK, OPPOSITE TURKEY STREET, IN THE TOWN OF FRANKLIN.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Marcus Hulings, his heirs and assigns, to erect, build, maintain and support a good and substantial bridge over and across French creek, opposite Turkey street, in the town of Franklin, in Venango county; and the property of said bridge, when built, shall be, and the same is hereby vested in the said Marcus Hulings, his heirs and assigns forever; and the said Marcus Hulings, his heirs and assigns, may demand and receive toll from travellers and others, not exceeding the following rates, viz: For every coach, landau, chariot, phaeton,

or other pleasurable carriage, ten cents for each horse drawing the same; for every loaded wagon or cart, ten cents for each horse drawing the same; and for every empty wagon or cart, eight cents for each horse drawing the same; for every sleigh or sled, six cents for each horse drawing the same; for a single horse and rider, six cents; for every horse, four cents; for every foot passenger, one cent; for every head of horned cattle, two cents; for sheep or swine, at the rate of ten cents for every score; and all carriages which shall be drawn by oxen and partly by horses, two oxen shall be estimated as equal to one horse. Provided always nevertheless, that nothing in this act contained shall extend to authorize the said Marcus Hulings, or any other person, to erect a bridge in the manner in this act before mentioned, on any private property, without the consent of the owners thereof, or to erect the same in such manner as in any way to interfere with, injure, or obstruct the navigation of the said creek, or the passage over the ford across the same near where the said bridge may be erected.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That if the said Marcus Hulings, his heirs and assigns, shall not proceed to carry on the said work within one year after the passing of this act, or shall not within three years complete the same, according to the true intent and meaning of this act, or if at any time after the said bridge is completed, it is suffered to be out of repair, so as to be impassable for horses and wagons for the space of twelve months, then and in either of those cases, all and singular the rights, liberties, privileges and franchises hereby granted to the said Marcus Hulings, his heirs and assigns, shall revert to this commonwealth.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That if the said Marcus Hulings, his heirs and assigns, shall neglect to keep the said bridge in good and perfect order and repair, for the space of five days, and information thereof shall be given to any justice of the peace of the county, such justice shall issue his precept, directed to any constable, commanding him to summon three

judicious freeholders to meet at a certain time, in the said precepts to be mentioned, at the said bridge, of which said meeting notice shall be given to the said Marcus Hulings, his heirs or assigns; and the said justice shall at such time and place, by the oaths or affirmations of the said freeholders, enquire whether the said bridge is in good and perfect order and repair as aforesaid; and if the said bridge shall be found by the said inquisition not to be in good order and repair according to the true intent and meaning of this act, he shall certify the same, and send a copy of the inquisition to the said Marcus Hulings, his heirs or assigns, and from thenceforth the said tolls hereby granted shall cease to be demanded, paid, or collected, until the defective part or parts of the said bridge shall be put in good and perfect order and repair as aforesaid.

Approved April 5, 1802. Recorded L. B. No. 8, p. 121.

CHAPTER MMCCXCV.

AN ACT TO ERECT WEST HANOVER TOWNSHIP, IN THE COUNTY OF DAUPHIN, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the township of West Hanover, in the county of Dauphin, shall be a separate election district; and the electors thereof shall hold their general elections at the house now occupied by Thomas Smith, near Green's Mill, in said township.

Approved April 5, 1802. Recorded L. B. No. 8, p. 120.

CHAPTER MMCCXCVI.

AN ACT TO ESTABLISH THE PLACES FOR HOLDING THE COURTS OF JUSTICE IN THE COUNTIES OF ARMSTRONG, BUTLER AND MERCER.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be, and he is hereby authorized and required to appoint five commissioners, who do not reside in the territory lying north and west of the rivers Ohio and Allegheny, and Conewango creek, in that part of Armstrong county lying east of the river Allegheny, and who do not own lands within the said territory, and who have no near relations residing within the said territory, and who, to the best of the governor's knowledge, are not owners of lands within the counties of Armstrong, Butler and Mercer; which commissioners, or a majority of them, shall meet at the house of Thomas Ferree, in the town of Pittsburgh, on the first day of June next, and from thence proceed to view and determine on the most eligible and proper situations for erecting the public buildings for the said counties of Armstrong, Butler and Mercer, and make their report into the office of the secretary of the commonwealth, on or before the first Monday of December next, which report shall by the secretary aforesaid be laid before the general assembly of this commonwealth, on or before the second Tuesday of December next. Provided however, that the places so reported shall be within the limits heretofore prescribed by law for each of the said counties respectively.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the aforesaid commissioners shall have power, and it shall be their duty, to receive such proposals of land or money as may be made to them for the purpose of defraying the expense of erecting the public buildings in and for each of the said counties, and to take assur-

ance of the same for the benefit of the counties for whose use they are respectively made; for which services each of the said commissioners shall have and receive three dollars per diem, for every day they shall be necessarily employed in the said service, to be paid by warrants drawn by the commissioners of Allegheny county, on the treasurer of the said county; and the said commissioners of Allegheny county are hereby authorized to demand and receive a due proportion of the said money from the county treasurers of Westmoreland and Crawford counties.

Approved April 6, 1802. Recorded L. B. No. 8, p. 193.

CHAPTER MMCCXCVII.

AN ACT TO PROVIDE FOR THE DISTRIBUTION OF THE LAWS AND JOURNALS, OF THE GENERAL ASSEMBLY OF THIS COMMONWEALTH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the printers who shall publish the laws, agreeably to a resolution of the general assembly, passed this session, shall on or before the first day of June annually, deliver three thousand copies into the office of the secretary of this commonwealth, whereupon the governor shall draw his warrant on the state treasurer in favor of such printer, for such sum of money as shall have been previously agreed on for printing of such laws.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the secretary of the commonwealth shall cause the said copies of the laws to be distributed in the following manner, to wit: Thirty copies thereof to the clerk of the senate, for the use of the senate and the members thereof respectively; one hundred copies to the clerk of the house of representatives, for the use of the house and the members thereof respectively; and shall distribute the residue in manner following: To the prothonotary of the supreme court six copies, one thereof for each of the judges, one for

the attorney-general, and one for himself; to the governor one, and retain one for the secretary's own use; to the secretary of the land-office, surveyor-general and receiver-general, each one copy; to the comptroller-general, register-general, state treasurer, and master of the rolls, one copy each; to the clerk of the mayor's court of the city of Philadelphia, forty copies; to the prothonotary of the county of Philadelphia, sixty copies; to the prothonotary of the county of Bucks, eighty-five copies; to the prothonotary of the county of Chester, ninety-five copies; to the prothonotary of the county of Lancaster, ninety-five copies; to the prothonotary of the county of Northampton, ninety copies; to the prothonotary of the county of York, seventy copies; to the prothonotary of the county of Cumberland, seventy-five copies; to the prothonotary of the county of Berks, ninety-five copies; to the prothonotary of the county of Bedford, fifty copies; to the prothonotary of the county of Northumberland, one hundred copies; to the prothonotary of the counties of Westmoreland and Armstrong, ninety copies; to the prothonotary of the county of Washington, one hundred copies; to the prothonotary of the county of Fayette, sixty copies; to the prothonotary of the county of Franklin, sixty copies; to the prothonotary of the county of Montgomery, eighty copies; to the prothonotary of the county of Dauphin, sixty-five copies; to the prothonotary of the county of Luzerne, sixty-five copies; to the prothonotary of the county of Huntingdon, sixty copies; to the prothonotary of the county of Allegheny, including the counties of Beaver and Butler, one hundred copies; to the prothonotary of the county of Mifflin, fifty-five copies; to the prothonotary of the county of Delaware, fifty-five copies; to the prothonotary of the county of Lycoming sixty copies; to the prothonotary of the county of Somerset, forty-five copies; to the prothonotary of the county of Greene, forty-five copies; to the prothonotary of the county of Adams, fifty copies; to the prothonotary of the county of Centre, forty copies; and to the prothonotary of the counties of Crawford, Venango, Warren, Erie and Mercer, one hundred copies.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the printers of the journals of the senate and house of representatives, shall deliver the said journals into the office of the secretary of this commonwealth, on or before the first day of June annually; and the said secretary is hereby authorized and directed, after delivering to the clerks of the senate and house of representatives, a sufficient number of copies of the laws and journals, for the use of their respective houses and members thereof, and also to the respective officers residing at the seat of government, to cause the remainder of the laws, agreeably to the proportion mentioned in the second section of this act, and the journals in proportion to the number of representatives each county may have in the legislature of this commonwealth, to be within one month after they have been delivered into his office, transmitted at the expense of the state, to the respective prothonotaries within the same, to be paid out of the funds appropriated for the support of government.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the prothonotaries of the respective counties, on receipt of the laws and journals annually, shall as soon as may be, give notice thereof, in a newspaper printed within such county, or where there is no such paper printed within such county, by advertisements posted up in the different parts of the county, purporting that the laws and journals of the last session are ready to be delivered out by them, to persons entitled to receive the same, agreeably to the provisions of this act; and the expense of publishing or advertising as aforesaid, shall be paid on orders drawn by the commissioners on the treasurer of such county, out of the county stock.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the prothonotaries of the respective counties shall distribute the laws and journals in the following manner and order, viz. One copy of each for himself and for the clerks of the different courts if the offices are divided; one to the register and recorder, if said offices are divided; one to the president and one to each of the associate

justices of the court; one to the board of commissioners; and one copy of each to be delivered by such prothonotary, to each constable of the respective wards or townships for which such constable was elected or appointed, to be by such constable delivered into the hands of the person occupying the house where the township elections for the choice of constables are held; and it shall be the duty of such constable annually, under the penalty of five dollars for every neglect or refusal, to procure and lodge the said copies of the laws and journals at such place of holding the elections as aforesaid, which laws and journals shall be kept at such house for the free inspection of every inhabitant, at all seasonable times, within such ward or township; and one copy of such laws and journals, if any journals be left after the aforesaid distribution, shall on application, be delivered to each justice of the peace, sheriff, county commissioner, treasurer, deputy-surveyor and brigade inspector, and to each associated library company; and the remainder, if any, shall be retained by such prothonotary, to supply deficiencies in any of the aforesaid offices: Provided, that the said prothonotaries respectively, shall not deliver any of said laws or journals without taking a receipt therefor, enjoining each officer receiving the same, to deliver them over to his successor, and such receipt shall be entered in a book by them prepared, at the expense of their respective counties.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the secretary of the commonwealth shall retain all the surplus copies of the laws, and keep them in a secure place, for such use as the legislature shall from time to time direct.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the act, entitled "An Act providing for the distribution of the journals of the senate and of the house of representatives of this commonwealth," passed the ninth day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ and so much of any other act or acts of the general assembly, relating to the printing or distributing of the

laws or journals of this commonwealth, as are hereby amended, altered or supplied, be, and the same are hereby repealed.

Approved April 6th, 1802. Recorded in L. B. No. 8, p. 187.

Note (1). Chapter 2055, 16 Statutes at Large, p. 272.

CHAPTER MMCCXCVIII.

AN ACT FOR LAYING OUT, MAKING AND KEEPING IN REPAIR, THE PUBLIC ROADS AND HIGHWAYS WITHIN THIS COMMONWEALTH, AND FOR LAYING OUT PRIVATE ROADS.

Whereas, the existing road law, which was passed the twenty-first day of March, in the year one thousand seven hundred and seventy-two,⁽¹⁾ directs that the road tax shall be levied on the clear yearly value of the property thereby made taxable, according to the estimate thereof made for the last county tax, assessed and levied in pursuance of an act for raising county rates and levies, passed the twentieth day of March, one thousand seven hundred and twenty-four and twenty-five.⁽²⁾ And whereas the act for raising county rates and levies, passed on the eleventh day of April, one thousand seven hundred and ninety-nine,⁽³⁾ establishes a mode of assessing county rates and levies different from that of the act last aforesaid, by which means it hath happened that supervisors cannot lawfully assess and collect taxes adequate to laying out, improving and repairing the public roads or highways: Wherefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the justices of the court of quarter sessions of each county within this commonwealth, on being petitioned to grant a view for a public or private road, shall have power, and by virtue of this act are directed and required, as often as they find it needful, in open court, to order and appoint six discreet and reputable freeholders, of

the inhabitants near where complaint is made for want of a private or public road or highway; and it shall be the duty of the freeholders so appointed, to view the ground proposed for the said road, and if they, or any five of them, view the said ground, and any four of the actual viewers agree that there is occasion for such road, they shall proceed to lay out the same, as agreeable to the desire of the petitioners as may be, having respect to the best ground for a road, and the shortest distance, in such a manner as to do the least injury to private property; and shall make a report thereof, stating particularly whether they judge the same necessary for a public or private road, together with a plot or draft thereof, and the courses and distances, and references to the improvements through which it may pass, to the next court of quarter sessions, and if then and there the justices of the said court shall approve of the same, it shall, at the court next after that to which the report is made, be entered on record, and thenceforth shall be taken, deemed and allowed, as the case may be, to be a lawful private or public road or highway; the court shall direct of what breadth the ground shall be opened, which shall not in any case exceed fifty feet.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the citizens qualified to vote for members of the general assembly, shall on the third Saturday of the month of March next, within their respective townships, and annually thereafter, elect by ballot, two freeholders or other inhabitants, qualified as aforesaid, who shall be supervisors of the public roads or highways for the ensuing year; and it shall be the duty of the supervisors then in office, in a summary way, before a justice of the peace, under the penalty of ten dollars, to be recovered for every neglect or refusal, ten days previous to the third Saturday in March, yearly and every year, to cause written or printed notices to be set up in at least five of the most public places within their respective townships, mentioning the time when and place where the said election is to be held, which shall be opened between the hours of one and three o'clock in the afternoon, and kept open until six o'clock of the same day, except in the township of the

Northern Liberties, where the same shall be kept open until eight o'clock in the evening; and two reputable citizens of the township shall be chosen for judges of the said election; who shall choose a clerk to assist them in recording and casting up the votes; the judges shall declare the two highest in votes to be duly elected, and a certificate of the election, signed by the judges, shall by them be forthwith delivered to the supervisors then in office, whose duty it shall be to deliver the said certificate into the office of the clerk of the court of quarter sessions, on or before the twenty-fifth day of March, annually, and to inform the supervisors so chosen of their having been elected and returned, who shall be the supervisors for the ensuing year; and if any supervisor or supervisors so elected, or who shall be appointed as hereinafter directed, being duly notified of his election or appointment as aforesaid, shall neglect or refuse to take upon him or themselves the said office, for every such neglect or refusal, he or they so neglecting or refusing, shall forfeit and pay any sum, at the discretion of the court, not exceeding fifty dollars, to be applied towards repairing the public roads or highways within the township in which such supervisor resides.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That if any supervisor or supervisors of the public roads and highways, so as aforesaid chosen, shall refuse, neglect, die, or remove out of the township, where any township shall have no supervisor residing therein, it shall be the duty of the justices of the court of general quarter sessions, to appoint a successor or successors to supply the vacancy or vacancies, and such supervisor or supervisors so appointed, shall have and exercise the same powers and authorities, and be liable to the same penalties as the supervisors elected in pursuance of this act.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That at the election for choosing supervisors for each township respectively, the electors shall, and are hereby enjoined and required to elect by ballot, four capable and discreet freeholders or inhabitants, qualified to elect as aforesaid, whose duty it shall be to settle and adjust

the accounts of the supervisor or supervisors whose time of holding the office is then about to expire, and the person or persons who have served the office of supervisor or supervisors the preceding year, shall on the twenty-fifth day of March yearly, or within ten days thereafter, produce fair and clear accounts of all such sums of money by him or them expended on the highways, and of all sums of money by him or them received by virtue of any assessment or otherwise, and of all fines and penalties due from themselves and others, which have come into his or their hands, which accounts shall be entered in a book provided for that purpose, and attested by him or them, on oath or affirmation, before a justice of the peace, if the freeholders, or any two of them, shall require the same; and the said freeholders or inhabitants, so chosen to settle the accounts aforesaid, or any three of them, shall have full power to adjust and settle such accounts so produced to them as aforesaid, and to allow such sums and charges as they think reasonable; and if there shall appear to be any money remaining in the hands of the person or persons who have served as supervisor or supervisors as aforesaid, they shall, by order in writing, signed by them, or any three of them, direct the same to be paid to the succeeding supervisor or supervisors; but in case such persons who shall have served as supervisor or supervisors shall be found to be in advance for moneys expended on the public roads, and shall have carefully collected the sums of money assessed and imposed by virtue of this act, then the said freeholders or inhabitants so chosen to settle the accounts as aforesaid, or any three of them, shall in like manner order the succeeding supervisor or supervisors to reimburse the same, as soon as a sufficient sum of money shall come into their hands; and if any person or persons who shall have served in the office of supervisor shall neglect or refuse to make up and produce fair and just accounts as aforesaid, or having made up and produced such accounts, shall neglect or refuse forthwith to pay the moneys which he or they shall have been ordered to pay as aforesaid, or shall not give up the books wherein an account of such moneys have been entered, to their successors, it shall be the

duty of any justice of the peace, on complaint to him made by the said freeholders or inhabitants so chosen to settle the accounts aforesaid, or by any three of them, to commit such delinquent or delinquents to the county jail until he or they shall comply as aforesaid, or be otherwise legally discharged.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the supervisors of public roads and highways of the respective townships in this commonwealth, to assess and levy a tax on all property, real and personal, and on all such professions, trades and occupations as are made taxable by the "Act for assessing county rates and levies,"³ passed April the eleventh, one thousand seven hundred and ninety-nine⁽³⁾, not exceeding half a cent in the dollar, on the real value of all such property, real and personal, and the estimation of the annual profits of all trades, professions and occupations made taxable by the aforesaid act; and in assessing and levying the aforesaid tax, the supervisors shall take to their assistance the township assessor for the time being, whose duty it shall be to furnish a correct copy of the last valuation of property in said township, and to give his assistance in making the said assessment; and the amount of taxable property, trades, possessions and occupations, shall be taken from the last return of taxable property made in the township for the last county tax, and apportionment on the inhabitants in proportion to the last corrected apportionment of the county taxes, put into the hands of the township collectors; and if any land or other property which might have been overlooked by, or concealed from the township assessor, in taking the return of taxable property for the assessment of county taxes, come to the knowledge of the supervisors, it shall be their duty, with the assistance of the township assessor, to tax the said property, whether real or personal, agreeable to a reasonable valuation; and it shall be the duty of the supervisors, either by themselves or by a proper person duly authorized by them, to collect the said tax, and in so doing, to call for it at the usual residence or place of abode of the inhabitants, if it is not otherwise paid; and if a collector is appointed, the supervisors shall be accountable for

the faithful collection of the tax. Provided always, that it shall be the duty of the said supervisors first to call upon the inhabitants of their respective townships, by advertisement or otherwise, who are taxed as aforesaid, to attend at such times and places as they may direct, so as to give the said taxable inhabitants a full opportunity to work out their respective taxes, but upon their neglect or refusal so to do, then the said supervisors to proceed to collect the taxes as is otherwise directed by this act.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That if any person so taxed, shall refuse or neglect to pay the same within twenty days after being called upon therefor, it shall be the duty of the supervisor or supervisors, to obtain a warrant from any justice of the peace of the county (who is hereby authorized and required to grant such warrant) and to levy upon the goods and chattels of the person or persons so refusing; and in case such person shall not within ten days after such levy is made, pay the sum or sums on him or her assessed, together with the charges of making such levy, that then the said supervisor or supervisors may proceed to sell the goods so levied on, and out of the moneys arising from such sale, to pay the tax and all costs accruing, rendering to the owner the overplus, if any shall remain. Provided nevertheless, that if any person or persons shall find him, her or themselves aggrieved with such assessment, it shall be lawful for the justices, at the court of quarter sessions next after such levy being made, upon the petition of the party aggrieved, to take such order thereon, as to them shall be thought expedient, and the same shall conclude and bind all parties; and the supervisor or supervisors, in case of such appeal, shall forbear to make sale of the property so as aforesaid levied on, until the said appeal be determined in the court of quarter sessions.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if the proportion of tax assessed on unseated lands in any township, or any part of it, is not paid to the supervisors, by or for the owners of said lands, within six days after the supervisors have

proceeded to collect the tax from the inhabitants, it shall be the duty of the supervisors to make out a fair transcript of the amount of the tax remaining unpaid and due on the several tracts of unseated lands within their respective townships, to which transcript the supervisors shall sign their names, and they shall deliver the same to the commissioners of the county, and on the receipt of the said transcript, the county commissioners shall give unto the supervisors an order on the county treasurer for the amount of the taxes remaining due on the unseated lands in their township, which order shall be paid out of the county taxes forthwith; and the county commissioners aforesaid are hereby directed and required, on the receipt of the transcript aforesaid, to proceed to recover the taxes due on unseated lands for public roads and highways, in the same manner, and with the same authority as the county taxes are or shall be by law directed to be recovered, and shall cause the proceeds of the same to be paid to the county treasurer, to reimburse the money paid to the supervisors of the roads and highways.

Section VIII. (Section VIII.) And be it further enacted by the authority aforesaid, That the tenant or tenants, or other persons residing on lands owned by persons not residing in the township, his, her or their goods, shall be liable to be levied on in manner aforesaid, for the payment of said taxes; and where any tenant or tenants shall have taken, or hereafter may take a lease of lands or tenements for one or more years, and of which the tenant shall be in possession at the time of assessing or levying the tax for public roads and highways, and shall pay the rate hereby imposed on the said lands or tenements so leased, in such case it shall be lawful for the tenant or tenants to deduct the tax out of the rent due, or to become due, or to recover the same from the owner or owners, by action of debt, with costs of suit. Provided however, that nothing herein contained shall be so construed as to impair or make void any contract between landlord and tenant, respecting the payment of the road tax.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the supervisors of the

public roads or highways of the several townships within this commonwealth, shall have power, and they are hereby enjoined and required to hire and employ a sufficient number of hands, to make, open and repair all the public roads within their respective townships, which by the court of quarter sessions of the proper county, have been, or hereafter shall be declared public roads or highways, and to purchase wood and all other materials necessary for that purpose, to oversee and direct the laborers, and to take care that the said roads be forthwith effectually opened, cleared and amended.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the supervisors aforesaid, or for any other person by order and direction of the supervisor or supervisors, to enter on any lands adjoining or lying near to the public roads and highways within their respective townships, and to cut or open such drains or ditches through the same, as he or they shall judge necessary to carry off and drain the water from such roads, provided the same be done with as little injury as may be to the owner of such lands; which drains or ditches shall be kept open by the supervisors, if necessary, for amending the said road, and shall not be stopped or injured by the owner of the land, or by any other person or persons, under the penalty of any sum not exceeding twenty nor less than four dollars, for every such offence, to be recovered on conviction thereof, before any justice of the peace of the proper county, with costs of suit.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the supervisors shall have full power and authority to enter upon any grounds adjoining or lying near the said public road or highway so to be opened, made or repaired within their respective townships, and to dig or cause to be dug, any gravel, sand or stones, or to gather any loose stones lying on the said lands, as he or they shall think necessary for the purposes aforesaid, provided that the same be done with as little damage as may be to the owners of such lands, and the said materials to carry off without let, hindrance or control of the owners,

he or they, the said supervisor or supervisors, paying or tendering to the owner or owners so much money as they shall agree upon, for the same; and if the supervisor or supervisors and the owners cannot agree on the price of the materials so wanted for making or repairing the roads as aforesaid, then and in every such case, so much money shall be paid by the said supervisors respectively, as any three freeholders of the township where such public road or highway doth lie, to be chosen by the parties, shall, or any two of them, estimate and adjudge to be the value of the materials so wanted for repairing the said roads in the respective townships aforesaid.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That all and every supervisor or supervisors of the highways, who shall refuse or neglect to do and perform his or their duty, as directed by this act (and for which penalties are not otherwise herein provided) shall be fined in any sum not less than four dollars, nor exceeding fifty dollars, to be recovered in a summary way, before any justice of the peace of the county, to be applied towards repairing the public roads and highways within the respective townships where such fines and penalties are incurred. Provided however, that if any supervisor or supervisors shall conceive himself or themselves aggrieved by the judgment of a justice of the peace, he or they may appeal, by petition, to the next court of quarter sessions, who shall take such order thereon, as to them shall appear just and reasonable, and the same shall be conclusive.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That if any person working on any road or highway, or being with him, shall ask money or reward, or shall by any means whatsoever, extort or endeavor to extort any money or other thing, of or from any person traveling upon any public road or highway, he shall for every such offence pay to the supervisor or supervisors of the said township, the sum of one dollar, to be recovered by the supervisors, or either of them, in a summary way, before any justice of the peace of the respective county, to be ap-

plied to the repair of the roads; and in case any supervisor shall connive at any person so asking, demanding or contriving so to extort from travelers as aforesaid, or shall himself extort or endeavor to extort money, drink, or other thing from travelers or any traveler as aforesaid, every such supervisor shall pay for every such offence, the sum of five dollars, to be recovered by any person who shall sue for the same, with costs of suit, the one half to the use of the prosecutor, and the other half to and for the repair of the roads within such township.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if a public road or highway shall be carried through any land whereby the owner shall receive damage, the person who sustains such damage, may within one year, but not afterwards, make a representation, by petition, of the damage he has sustained, to the court of quarter sessions, and the said court shall appoint six disinterested men to view and adjudge the amount of the damage (if any) sustained, and the said amount shall be paid, after being approved of by the court by the treasurers of the respective counties out of the county stock. Provided always, that it shall be the duty of the viewers, in assessing damages, to take into consideration the advantages derived from such said road passing through the land of the complainant.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall stop or obstruct any of the public roads or highways laid out agreeably to law, or shall commit any nuisance thereon, by felling trees, making fences, or by turning the road, or by any other way whereby the road or highway may suffer damage, and do not, on notice given by the supervisor of the proper township, remove the nuisance or repair the damage forthwith, such person or persons shall for every such offence, be fined in a sum not exceeding forty dollars, nor less than ten dollars, as the case may require, to be recovered before one of the nearest justices of the peace of the proper county, and to be applied to the removing of the said nui-

sances, or repairing the injury or damage which the road or highway may have so sustained, and the surplus (if any) to be applied to the repair of the roads in the respective townships. Provided always, that the same appeal shall be allowed to any person or persons fined as aforesaid, as is provided by the twelfth section of this act.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That in cases where any road has been laid on the line which divides two townships, or may hereafter be so laid, the said road shall be made, amended or repaired, as the case may require, at the joint expense of both of the townships on whose division line the road is laid; and in case the supervisor or supervisors of one of the said townships shall neglect or refuse to join with and assist the supervisor or supervisors of the other township, in opening, amending or repairing any such road, such supervisor or supervisors so neglecting or refusing, shall be liable to the same penalties as if he or they had neglected or refused to open, amend or repair any public road or highway within his or their respective township, and the supervisor or supervisors of the other township, is hereby directed and required to open, amend and repair the said road, and to charge the aforesaid supervisor or supervisors so refusing and neglecting, with one half of the monies expended on such road, and to recover the same by action of debt, to be brought against such supervisor or supervisors so neglecting.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That upon application, by petition, of any person or persons, to the court of quarter sessions, for a road from the plantation or dwelling house of such person or persons, to or from the public highway, or to any place of necessary public resort, the aforesaid justices shall, in open court, and not otherwise, order and direct a view of the place where the road is requested to be laid out, and a return thereof to be made in the same manner as is before directed in this act; and if such road is found to be necessary, the said justices of the court of quarter sessions

shall further order and direct of what breadth the said road shall be, so as the same shall not exceed twenty-five feet, and such road shall be recorded by the court. Provided however, that the said road shall be opened and kept in repair by and at the expense of the person or persons at whose request the same was granted and laid out, and of such as have occasion to travel to and from their dwelling houses on the said road; and if it shall happen that such road shall be carried through any man's ground, the damaged sustained thereby by the owner or owners, shall be valued in the manner before directed in this act, and paid for by the person or persons at whose request the road was granted and laid out, and of those who use the same as a common road to and from their own dwellings.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That if the owners of the improved land through which any such private road is laid out, or the owners of other land through which it is carried, are desirous to hang a swinging gate or gates upon such roads as are only granted for the use of one or more private families, it shall and may be lawful for the aforesaid court, on application, by petition to them made, to appoint six persons, in the manner hereinbefore directed for laying out roads, to enquire and judge whether such gate or gates may without much inconveniency to the persons for whose use the road was granted, be hung on the same, and if the persons appointed to view the place, or any four of them, shall certify to the justices of the court aforesaid, that a gate or gates may be hung according to the prayer of the party, without much inconveniency to the person or persons using the road, the justices shall order that a gate or gates may be hung thereon accordingly, and that the same shall be made and kept in repair by the owner of the said land, and made easy for the passage of persons using the said road.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the several courts of quarter sessions, in their respective counties, shall have

authority, upon application, by petition to them made, to enquire of and to vacate any private or public road or highway, or any part of such road or highway which they shall judge to be useless, inconvenient and burdensome, and the said court shall proceed therein by views thereof, in like manner as they are authorized to do, and as is usually practiced in laying out of public roads and highways; and the judgment of the court of quarter sessions shall be effectual and conclusive in the premises, if the same be not appealed from within six months from and after the giving of such judgment; the application aforesaid shall be made in writing, signed by the persons applying, and shall set forth in a clear and intelligible manner, the length, breadth, situation, and other circumstances of such road or highway, or of the part thereof which those applying desire to have laid aside and vacated as aforesaid, and such application shall be audibly read twice in open sessions, on the different days of the sessions whereat it was made; and no other or further proceeding shall be had thereon, but the same shall be adjourned till the next court of quarter sessions, when the same shall again be openly and audibly read twice, on several days, before the court proceed thereon. Provided always, that nothing in this act shall be understood to give authority to any of the said courts of quarter sessions, or to the supreme court, to vacate any lane, street or highway within the city of Philadelphia, or within any borough, town plot, or any town or village in this state, which hath been laid out by the late proprietaries, or by any other person or persons, and dedicated to public use; nor to vacate any cartway laid out by order of court; nor any road or passage claimed by any person as his or her private right, and which cartway, roadway or passage, is not repairable at the charge of the township or district; nor to rivers or streams of water.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the supervisors, and they are hereby enjoined and required, in making and repairing the public roads or highways, to make and maintain sufficient causeways, of stone, or timber,

on marshy or swampy grounds, and also make and maintain sufficient bridges over all small creeks and rivulets and deep gullies, where the same shall be necessary for the ease and safety of travelers; and where a small creek, over which a bridge may be necessary, happens to be a boundary or division line of two townships, the bridge shall be built and maintained by the supervisors of both townships respectively, at the equal expense of the said townships, in the same manner as is directed by this act with respect to the making and repairing of public roads and highways which may be the division line of townships.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That where a river, creek or rivulet, over which it is necessary to erect a bridge, crosses a public road or highway, and the erecting of such bridge requires more expense than it is reasonable that one township, or two adjoining townships should bear, it shall be the duty of the justices of the court of quarter sessions, and they are hereby enjoined and required, on the representation of the supervisor or supervisors, or on the petition and at the request of a number of the inhabitants of the respective townships, to order a view, in the same manner as in the case of laying out roads and highways; and if on the report of the said view, it appears to the court, grand jury, and commissioners, that such a bridge is necessary, and would be too expensive for the township or townships to erect, it shall be entered on record, and it shall be the duty of the commissioners of the county to procure an estimate, as nearly as may be, of the money which will be necessary to erect such bridge, and the commissioners of the county shall provide the same out of the county taxes, and proceed forthwith to have such bridge erected, by contract or otherwise, as shall seem to them most expedient; and such bridge, when so erected, shall be inspected by six fit persons, appointed by the justices of the court of quarter sessions, agreeably to whose report it shall be approved or disapproved by the court, and if approved, the money shall be paid agreeably to contract,

or damages in favor of the county awarded, according to the judgment of the court.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That in all cases wherein the court of quarter sessions is authorized to grant a view for the purpose of laying out or vacating roads, or respecting bridges, the justices of the court of quarter sessions are hereby authorized and directed, on application to them made for that purpose, to grant a review of the same, at the expense of the parties applying. Provided, that application is made therefor at the next court of quarter sessions after report has been made on the first view.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the township assessor shall receive from the supervisors, any sum not exceeding one dollar, for every day he shall be necessarily employed in assessing the tax directed by this act, and that the supervisors shall be allowed in the settlement of their accounts, any sum not exceeding one dollar respectively, for every day they shall be necessarily employed in discharging the duties of their office, except for collecting the road tax, for which they shall be allowed the amount of five cents out of every dollar they shall collect or cause to be collected, and no more; and the freeholders or other inhabitants who shall be directed to view public roads or highways, shall each of them, for every day they are necessarily employed in that service, receive from the county treasurer one dollar, on producing a certificate from the clerk of the court of quarter sessions, that such service was performed by them; the surveyor shall be found and paid by the persons applying for the view; and the expence of views of private roads, and of reviews of private or public roads, shall be wholly paid by the parties applying for the same.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That the supervisors within the respective townships, shall cause posts to be erected, where trees are not convenient, at the intersection of all public roads, with boards and an index hand pointing

to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town, village or place to which such road leads, and the distance thereof in computed miles; and any person or persons who shall wilfully injure, deface or destroy any such posts or index boards, the person or persons so offending shall, on conviction thereof, before any justice of the peace of the proper county, forfeit and pay any sum not exceeding ten dollars, one half thereof to be paid to the informer or informers, and the other half to the supervisor of the respective townships wherein the offence shall be committed, to be appropriated to the repairs of the roads of such townships.

Section XXV. Section XXV, P. L.) And be it further enacted by the authority aforesaid, That all laws heretofore enacted for the laying out, opening, making, amending or repairing of public or private roads or highways, or for the making and repairing of bridges, other than turnpike roads and streets, roads, lanes, alleys and bridges, in the city of Philadelphia and other corporate towns, are hereby repealed and made void. Provided always, that nothing herein contained, shall be so construed as to interfere with any special provisions heretofore made by law, respecting the county of Philadelphia.

Approved April 6, 1802. Recorded L. B. No. 8, p. 166.

Note (1). Chapter 653; 8 Statutes at Large, p. 185.

Note (2). Chapter 284; 4 Statutes at Large, p. 10.

Note (3). Chapter 2095; 16 Statutes at Large, p. 375.

CHAPTER MMCCXCIX.

AN ACT TO MAINTAIN THE TERRITORIAL RIGHTS OF THIS STATE, AND PROTECT THE PROPERTY OF PERSONS HOLDING LANDS UNDER THE SAME.

Whereas, certain persons under the pretence of title derived either from the state of Connecticut, or from certain companies known by the names of the Connecticut Susquehanna company, and the Connecticut Delaware company, to a considerable extent of territory within this state, have by

various improper practices long endeavored to defeat the execution of the laws of this state, and to defame the titles of persons holding lands by grants from this state or the late proprietaries before the revolution; in order therefore to counteract such practices, and to preserve the just rights of this state,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first day of May next, no conveyance to be made of any land within the counties of Luzerne, Lycoming and Wayne, shall be good or effectual to pass any right, title, estate, interest or claim whatever, either at law or in equity, unless the title to the land in such conveyance mentioned, is derived from this state, or the late proprietaries thereof, before the fourth day of July, one thousand seven hundred and seventy-six, and unless the said conveyance shall expressly refer to and recite the substance of the warrant, survey, patent or title under which the same is derived from this state, or the late proprietaries thereof, before the said fourth of July, one thousand seven hundred and seventy-six; and if any judge or justice shall take an acknowledgment or proof of, or any recorder of deeds, or any other person, shall record any deed which shall not have been derived as aforesaid, he shall forfeit for every offence the sum of two hundred dollars, which forfeiture shall be recoverable by action of debt, in any court of record in this state, the one half thereof to the use of the commonwealth, and the other half thereof to the person who shall sue for the same; and such acknowledgment and recording shall be void and of no effect; and every such recorder of deeds so offending, shall forfeit his office. Provided always, that nothing herein contained shall be so construed as to make valid any conveyance heretofore made, of any pretended title or claim to land under the colony or state of Connecticut, or either of the companies known by the names of the Connecticut Susquehanna, or the Connecticut Delaware company.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That no person in any manner interested in the said pretended title or claim under the colony or state of Connecticut, or either of the said companies, shall sit as a judge or serve as a juror in any cause, civil or criminal, wherein the said pretended claim or title shall or may, directly or indirectly, be brought into question; and if any sheriff shall summon any person or persons, to serve as a juror or jurors, who are directly or indirectly concerned and interested in any Connecticut title, knowing him or them to be so concerned or interested, such sheriff, on conviction thereof, shall be fined in any sum not exceeding five hundred dollars, to be recovered as other fines and forfeitures are recoverable by law.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That none of the penalties or disabilities created by the present act, except so far as relates to judges, sheriffs or jurors, shall relate to land or the claimants of land within the Seventeen townships of Luzerne county, or any of them, so far as concerns any act of theirs respecting lands within the said townships, which have been or may hereafter be duly submitted according to law, under the provisions of an act of the general assembly of this commonwealth, passed on the fourth day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ entitled "An act offering compensation to Pennsylvania claimants of land within the Seventeen townships in Luzerne county, and for other purposes therein mentioned," or any supplement thereto.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That any person who shall, from and after the first day of June next, bargain, sell or convey, or by any ways or means obtain, get or procure any pretended right or title, or make or take any promise, contract, grant or covenant, to have any right or title of any person or persons, in or to any lands, tenements, or hereditaments within this state, under the said pretended title from the state of Connecticut, or either of the said companies, shall forfeit the sum of two hundred dollars, which forfeiture

shall be recoverable by action of debt, in any court of record in this commonwealth, the one half thereof to the use of the commonwealth, and the other half to the person who shall sue for the same; and such promise, contract, grant or covenant, is hereby declared to be utterly void and of no effect.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the governor is hereby authorized and required to make known the contents of this law by proclamation, and to enjoin obedience thereto.

Approved April 6, 1802. Recorded L. B. No. 8, p. 191.

Note (1). Chapter 2053; 16 Statutes at Large, p. 245.

CHAPTER MMCCC.

A FURTHER SUPPLEMENT TO THE ACT, ENTITLED "AN ACT OFFERING COMPENSATION TO THE PENNSYLVANIA CLAIMANTS OF CERTAIN LANDS WITHIN THE SEVENTEEN TOWNSHIPS, IN THE COUNTY OF LUZERNE. AND FOR OTHER PURPOSES THEREIN MENTIONED," PASSED THE FOURTH DAY OF APRIL, ONE THOUSAND SEVEN HUNDRED AND NINETY-NINE. (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all Pennsylvania claimants, whose titles originated prior to the decree of Trenton, entitled to land within the Seventeen townships, who shall transmit their releases, and all Connecticut claimants intended to be embraced within the provisions of the act to which this act is a supplement, claiming land within the said Seventeen Townships, who shall submit their titles to the secretary of the land office, on or before the first day of August next, shall be entitled to all the benefits of the aforesaid act.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That all applications of Connecticut claimants, actually transmitted and received at the land office aforesaid, although after the time heretofore appointed by law for their being received, shall be acted upon by the com-

missioners, in like manner as if they had been received before the expiration of the time so limited and appointed.

(Section III, P. L.) Whereas, divers Connecticut claimants who have transmitted their applications to the land office of Pennsylvania to be received within the provisions of the act passed the fourth day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ have since sold their land, or part thereof, to other persons,

(Section III.) Be it therefore enacted by the authority aforesaid, That such subsequent purchasers shall be admitted to the benefits of the said act, passed the fourth day of April, one thousand seven hundred and ninety-nine⁽¹⁾, in the same manner as their vendors would have been entitled, without such purchasers being required to make any new application for that purpose; and all purchasers under process of law, of land claimed under the title of the Susquehanna company, within the said Seventeen townships, already submitted by a former claim thereof, shall be equally entitled to the benefits of the said act of the fourth day of April, one thousand seven hundred and ninety-nine⁽¹⁾, as if such purchaser himself had submitted the same by his application to the land office for that purpose.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the attorneys or agents duly authorized by such Connecticut claimants whose application has been or may be transmitted to the land office or to the commissioners aforesaid, under the provisions of the act of the fourth day of April, one thousand seven hundred and ninety-nine⁽¹⁾, or this supplement thereto, where such claimants are infants, or residents of a distant part of this state, or reside out of this state, or are disabled by sickness or corporal infirmity, from attending the commissioners in person, may exhibit the title of such claimant, and take the oath of single title enjoined by the act of the fourth day of April, one thousand seven hundred and ninety-nine⁽¹⁾ in respect of the land so claimed, to the best of their knowledge and belief, and the same shall be equally valid as if done by the principals in person.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the commissioners aforesaid, or any of them, shall have power to summon before them any person or persons, and to administer oaths or affirmations generally, to any person appearing before them, touching the objects of the present act and the act⁽¹⁾ to which this is a supplement; and any person swearing falsely in respect to any matter whereunto he shall be examined by the said commissioners, or any of them, and within the duties of their office, shall be subject to all the penalties by law annexed to the crime of wilful and corrupt perjury; but the power of the commissioners to summon and examine, upon oath or affirmation, any person whatsoever, shall be confined to the proper objects of their commission and the duties by law assigned to them.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the attorney general of this commonwealth, to give his legal advice and opinion, without delay, on any question submitted to him by the said commissioners, or a majority of them, respecting the execution of their commission.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners, or any of them who shall be engaged in the examination of titles of Connecticut claimants, shall be at liberty to employ one additional clerk permanently, and such occasional assistance as the business may absolutely require; provided no such clerk shall be paid more than two dollars per day for his services.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the commissioners, or any of them who may be employed in the examination of titles as aforesaid, and may find it necessary to proceed in rotation through such of the Seventeen townships where the Connecticut titles of the inhabitants thereof yet remain to be examined, shall be repaid all reasonable costs and charges expended in conveying from one township to another, the books, papers and documents belonging to the commission,

and every other reasonable expense necessarily incurred in traveling from township to township.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the said commissioners to survey, value, and certify, not merely such parts and portions of the tracts of land claimed under the title of the Susquehanna company, within the Seventeen townships aforesaid, as have been or may be released to this commonwealth by the Pennsylvania claimants thereof, but the whole of each tract of land claimed by a Connecticut claimant, who shall establish his title thereto in the manner prescribed by the aforesaid act of April fourth, one thousand seven hundred and ninety-nine⁽¹⁾, whether released to this commonwealth or not; and if any Pennsylvania claimant of such land shall refuse or neglect to release the same to this commonwealth, under the provisions of the aforesaid act of April fourth, one thousand and seven hundred and ninety-nine⁽¹⁾, on or before the first day of August next, such Pennsylvania claimant shall not hereafter be entitled to recover the same by any action, in any court whatever in this commonwealth, against the Connecticut claimant, in whose favor a certificate shall be granted by the said commissioners, for such land, or against any person claiming under such certificate, or any patent issued by virtue thereof; but the Pennsylvania claimant so refusing or neglecting to release such lands as aforesaid, shall be at liberty to institute a suit in the supreme court of Pennsylvania, against this commonwealth, which suit shall be tried and determined at any circuit court of the supreme court, in the county of Luzerne, unless on special motion and reasonable cause shown, the judges of the supreme court shall think fit to direct the venue to be changed in any suit so instituted, which in such case shall be tried and determined at any circuit court of the supreme court, to be held either in the county of Northumberland, or the county of Lycoming, at which trial the said court and jury shall have power to award a just compensation for the land so taken from such Pennsylvania claimant. Provided, he shall in the course of the said trial. make it appear to the court

and jury, that he is fully, fairly and exclusively entitled to such land under this commonwealth, except as against the person or persons claiming the same by virtue of a certificate or patent granted under the authority of this act; and upon such trial being determined in favor of the Pennsylvania claimant, the plaintiff in the said suit shall be entitled to receive, in current money of the United States, the full sum so awarded in his favor, together with costs of suit, on presenting to the governor of this commonwealth a certificate of the verdict and judgment in such suit, and the costs thereof to be taxed in the usual manner, and certified by the judges before whom the said trial was held, and by the clerk of the court, whereupon the governor shall issue his warrant for the amount aforesaid, to the treasurer of this commonwealth.

Section X. Section X, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the said commissioners to demand and receive, of and from each Connecticut settler and claimant applying for a certificate under the aforesaid act of April fourth, one thousand seven hundred and ninety-nine⁽¹⁾, or the present act, every deed and document of title under the Susquehanna company, relating to the lands required to be certified, which may be in the power or possession of such Connecticut settler or claimant previous to the issuing of any certificate for such lands, which deeds and documents shall be transmitted by the said commissioners to the secretary of the land office, together with all other papers relating to the said commission, when required by the governor.

Approved April 6, 1802. Recorded L. B. No. 8, p. 124.

Note (*). Chapter 2053; 16 Statutes at Large, p. 245.

CHAPTER MMCCCI.

AN ACT FOR THE MORE CERTAIN ADMINISTRATION OF JUSTICE.

Whereas, from sickness and other causes, the holding of the courts of justice of this commonwealth, at the regular terms, have been and may hereafter be prevented: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That no process, pleas, suits, actions or proceedings which have at any time been, now are, or hereafter shall be commenced, sued, brought, or depending before the supreme court, or any other court of the commonwealth, shall be discontinued or put without day, or so considered, by reason of the nonattendance of the justices or judges of the said courts, but shall stand good and effectual in law, to all intents and purposes, notwithstanding the nonattendance of any of the said justices or judges.

Approved April 6, 1802. Recorded L. B. No. 8, p. 132.

CHAPTER MMCCCII.

AN ACT FOR THE REGULATION OF THE MILITIA OF THE COMMONWEALTH OF PENNSYLVANIA.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That each and every free, able bodied, white male citizen, of this or any other of the United States, and every other free, able bodied, white male person who has been resident in this commonwealth for six months previous to the time of his enrollment, who is or shall be of the age of eighteen years, and under the age of forty-five

years, except as is hereinafter excepted, shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company within whose bounds such citizen or other person as above described shall reside, and that it shall at all times hereafter be the duty of such captain or commanding officer, to enroll, or cause to be enrolled, every such citizen and other person, resident as aforesaid, and also those who shall from time to time arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, or become resident as aforesaid, and not excepted by this act, shall come to reside within his bounds, noting as precisely as possible, the particular age of each person enrolled, and in all cases of doubt respecting the age or residence of any person enrolled or intended to be enrolled, the party shall prove his age or residence, to the satisfaction of the officers of the company within whose bounds he may reside, or a majority of them, and that it shall be the duty of each captain or commanding officer of a company, to take or cause to be taken, an accurate class list or roll of all the persons subject to militia duty, who shall have been enrolled by him as aforesaid, noting as precisely as possible, the age of each person enrolled, and particularly designating all such persons within the bounds of his company, and the ward or township in which they reside, subject to militia duty, who shall desire to be considered as exempts, or persons exempted from training in regiments, battalions, or companies, as is directed by this act, but not as persons exempted from their tour of duty, when the militia of this state, or any detachment thereof, shall be called into actual service; but if any person neglects or refuses to make his choice as aforesaid, the said captain shall place the name of such person on the list of exempts. Provided always, that exempts shall enjoy the right of appeal, and have such reliefs as delinquents have in cases of appeal provided for in the seventeenth section of this act. And in all cases where exempts obtain any exoneration as aforesaid, the amount thereof shall be certified under the hand of the president of the court of appeal, which certificate, when presented to the collector of taxes, shall be

received by him as payment of such part of the said exempt's fine as shall be therein expressed; and the commanding officer of each regiment respectively, shall transmit a list of the names of the officers appointed to hear and determine on appeals for the current year, to the county commissioners, on or before the first day of August annually; and the said captain or commanding officer shall, under the penalty of fifty dollars for every such neglect or refusal, yearly and every year, on or before the day of regimental review, to be in the month of May, deliver or cause to be delivered, one complete class list or roll as aforesaid, on oath or affirmation, to the brigade inspector, and it shall be the duty of the said brigade inspector, within ten days after he shall have received the said lists or rolls as aforesaid, to deliver or safely transmit to the commissioners of the proper county, and within sixty days thereafter, to the state treasurer and register-general, to each a true and accurate list of the said exempts as aforesaid, returned to him by the captains or commanding officers of the respective companies, under the penalty of twenty dollars for every such offence, and shall incur a further fine of twenty dollars for every month's delay after the expiration of the said sixty days, to be recovered by the treasurer of the state, for the use of the commonwealth; and thereupon the said county commissioners shall annually fine or charge the persons so returned to them as exempts in their county duplicates, the sum of five dollars each, over and above the amount of their taxes; and the tax so imposed on all minors who are exempts, shall be charged to the parent, guardian, master or mistress of such minor, keeping the amount of the said fines in a separate and distinct column from the county tax; and it shall be the duty of the said commissioners, under the penalty of five hundred dollars each, for every neglect or refusal, to be recovered agreeably to the provisions of the thirty-fourth section of this act, to direct and cause the said exempt fines to be collected annually, at the same time and in the same manner in which the county tax is directed by law to be collected, except as to the discretion of exoneration invested in the commissioners in other cases, and

in like manner to be paid and received in the treasury of the county; and the county treasurers respectively, are hereby directed to keep separate and distinct accounts of all the moneys so by them received for exempt fines in pursuance of this act. And the said county treasurers respectively, shall settle with the register general, and pay yearly to the treasurer of the commonwealth, all such fines from exempts as they shall receive by virtue of this act; and the said county treasurers respectively, shall be allowed in the settlement of their accounts with the comptroller and register generals, five per centum on all moneys so received and by them paid to the state treasurer as aforesaid.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the vice-president of the United States, officers judicial and executive of the government of the United States, the members of both houses of congress, and their respective officers, all custom house officers, with their clerks, all post officers and stage drivers who are employed in the care and conveyance of the mail of the United States, all ferrymen employed at any ferry on the post roads, while they remain such, all inspectors of exports, all pilots, all mariners actually employed in the sea service of any citizen of the United States, ministers of religion of every denomination, professors and teachers in the university, colleges, academies and schools, while they are actually employed as such, judges of the supreme court, and presidents of the court of common pleas, menial servants of ambassadors, ministers and consuls from foreign states, sheriffs, gaolers, and keepers of work houses, shall be, and they severally are exempted from militia duty, notwithstanding their being above the age of eighteen years and under the age of forty-five years.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the militia of this commonwealth shall, within the respective bounds hereinafter mentioned, be arranged into divisions, brigades, regiments, battalions and companies; that each division shall consist of two brigades, and each brigade so to be formed, shall con-

sist of not less than four regiments, each regiment of two battalions, each battalion of four companies, exclusive of a flank company, in such manner that no company shall consist of more than one hundred nor less than sixty-four privates, or as near as may be, having regard to their local situations; there may be attached to each battalion, one company of grenadiers, light infantry, or riflemen, which company shall be formed within the bounds of the regiment, and to each brigade there shall be but one company of artillery, which company shall be furnished with one piece of ordnance, at the expense of the state, as soon as they shall be completely uniformed and equipped, and one or more troops of horse, which shall be formed of volunteers in their respective brigades, at the discretion of the governor, not exceeding one company to a regiment nor more in number than one eleventh part of the infantry.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the territory of this commonwealth be, and it is hereby divided into division bounds, as follows, to wit: The city and county of Philadelphia shall form one division; the counties and county of Philadelphia shall form one division; the counties of Bucks and Montgomery one; the counties of Chester and Delaware one; the county of Lancaster one; the counties of York and Adams one; the counties of Berks and Dauphin one; the counties of Cumberland and Franklin one; the counties of Northampton and Wayne one; the counties of Northumberland, Lycoming and Luzerne one; the counties of Mifflin, Huntingdon and Centre one; the counties of Bedford, Fayette and Somerset one; the counties of Washington and Greene one; and the counties of Westmoreland, Allegheny, and that part of Butler which is included in lieutenant-colonel Gilliland's regiment, and that part of Beaver which lies south of the river Ohio, one; and the counties of Armstrong, Crawford, Erie, Venango, Warren, Mercer, part of Butler, and that part of Beaver which lies north and west of the river Ohio, one other division; the city of Philadelphia shall form one brigade; and each division shall be composed of two brigades; and when by increase of

population or other causes, the number of men in any of the regiments becomes too large or greatly disproportionate, it shall and may be lawful for the brigadier general and brigade inspector, with the commanding officers of the regiments in each brigade, or a majority of them, to cause a new arrangement to be made in the regiments and battalions, and to equalize the same as nearly as may be, or to form additional regiments or battalions, if in their opinion the same be necessary. Provided, that no regiment shall consist of more than one thousand nor less than five hundred men, and the battalions in the same proportion; and when from the increase of population or other causes, the number of men in any of the companies of a regiment, shall become greatly disproportionate to the number of men in other companies, the field officers of such regiment are hereby authorized to make such arrangements and distributions of the men as in their discretion shall be convenient and proper, in order to equalize the number of men in the several companies, or to form additional companies, if in their opinion the same be necessary.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That there shall be two colors or standards provided at the expense of the state, for every regiment, so that each battalion may have one, and they shall be uniform throughout the state, and of the following dimensions and devices, to wit: The length or height of the staff of each of the said colors shall be nine feet, with a brass spear on the top thereof; the fly of each of the said colors shall be five feet six inches in length, and four feet six inches in the height on the staff; on the fly of one of the said colors, to be made of a dark blue colored silk, there shall be painted an American eagle, with expanded wings, supporting the arms of the state, or some striking part thereof; in the upper corner, next to the staff, there shall be inserted, in white letters and figures, the number of the regiment, and the word "Pennsylvania," encircled or ornamented with thirteen white stars; the fly of the other color shall be composed of thirteen red and white alternate stripes, with the upper corner next to the staff colored and appropriated as above directed; and each

color shall be ornamented with two silk tassels; and the two colors or standards now deposited in the office of the secretary of this commonwealth, shall be preserved as models for the colors of the state, agreeably to which all the regimental colors of this commonwealth shall be made. And the uniform or military dress of the militia of this state shall be as follows, to wit: For the infantry, light infantry, and cavalry, a blue coat, faced with red, the lining and buttons thereof white; for the artillery, a blue coat, faced and lined with red, with yellow buttons; but the uniform of the general officers, and of the officers of the staff, shall be blue, faced with buff, the regimental staff excepted, whose uniform may be that of the regiment to which they belong; and the cocade to be worn by the militia of this state, shall be blue and red. Provided, that nothing in this section shall entitle any regiment or battalion to the colors or standards above described, who have already received the same in pursuance of the fifth section of the act, entitled "An act for the regulation of the militia of the commonwealth of Pennsylvania, passed the ninth day of April, one thousand seven hundred and ninety-nine."⁽¹⁾

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the commissioned officers of infantry, light infantry, grenadiers and riflemen, shall severally, at their own expense, be armed with a sword or hanger, a fuzee, bayonet and belt, and a cartridge box, to contain at least twelve cartridges; the commissioned officers of the several troops of horse, shall furnish themselves with good horses, of at least fourteen hands and an half high, and shall be armed with a sword and a pair of pistols, the holsters of which shall be covered with bearskin caps; each light horse man or dragoon shall furnish himself with a serviceable horse, of at least fourteen hands and an half high, a good saddle, bridle, mail pillion and valse, holsters and a breast plate and crupper, a pair of boots and spurs, a pair of pistols, the holsters of which shall be covered with bear skin caps, a sabre, and a cartridge box, to contain at least twelve cartridges for pistols; and every person so enrolled and provided with arms, ammunition and accoutrements required as afore-

said, shall hold the same exempted from all suits, distresses, executions or sales for debt, or for the payment of taxes.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the militia shall be officered as follows: To each division, one major-general and two aides-de-camp, with the rank of major; to each brigade, one brigadier-general, one brigade-major, and one brigade-inspector; each with the rank of major; to each regiment, one lieutenant-colonel commandant; and to each battalion, one major; to each company of infantry (including light infantry, riflemen and grenadiers) one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer or bugler. There shall be a regimental staff, to consist of one adjutant and one quartermaster, to rank as lieutenant, one paymaster, one surgeon, one surgeon's mate, one sergeant-major, one quartermaster-sergeant, one drum-major and fife major; there shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one fifer; and to each troop of horse there shall be one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter. There shall be one adjutant general, with the rank of brigadier-general, appointed for the whole militia; and it shall be the duty of the first sergeant of every company to act as clerk of the company.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the adjutant-general, major-generals, brigadier-generals, and brigade-inspectors, shall be appointed and commissioned by the governor; the division and brigade officers to be residing within their respective division and brigade bounds; that the major-generals shall appoint their own aides-de-camp, and the brigadier-generals their brigade-majors; that the field officers of each regiment shall appoint their respective regimental staffs; that the lieutenant-colonels, majors, captains, lieutenants, and ensigns, sergeants and corporals, shall be elected in form and manner hereinafter mentioned and provided for; but no person shall be eligible, or hold a commission in the militia, who is not a

citizen of this state, or who shall not reside within the regiment, battalion or company in which he was elected; that all commissioned officers shall be commissioned during seven years, if they shall so long behave themselves well, and shall take rank according to the date of their commissions; and when two or more of the same grade, whose commissions bear an equal date, shall meet on command, then their rank shall be determined by lot, to be drawn by them in the presence of the commanding officer of the detachment; and if any commissioned officer shall remove out of the bounds of the city of Philadelphia, or out of the bounds of any county or district in which he was designed to command, his office shall thereby forthwith become vacant.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the adjutant general to distribute all orders from the governor, as commander in chief of the militia of the state, to the brigade-inspectors, or to the several corps, when in actual service; to attend all public reviews when the governor shall review the militia; to obey all orders from him, relating to the carrying into execution and perfecting the system of military discipline established by this act; to furnish each brigade inspector with one set of blank forms of the different returns that may be required, for which he shall be allowed in the settlement of his accounts with the register-general, and to explain the principles on which such returns should be made; to receive from the several officers of the different corps throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline; all which the several officers of the divisions, brigades, battalions, troops and companies, are hereby required to make, in such manner as the governor shall direct, so that the said adjutant-general may be furnished therewith; from all which returns he shall make a general return of all the militia of the state, and lay the same before the governor, and transmit a duplicate thereof to the president of the United

States; that the said adjutant-general, before he enters on the exercise of the duties of his office, shall give bond, with two or more sufficient sureties, in the penalty of five thousand dollars, conditioned for the due and faithful performance of the said duties, and shall in full compensation for his service, receive a yearly salary of six hundred dollars; and it shall be the duty of said adjutant-general, his heirs, executors or administrators, under the penalty of one thousand dollars, to deliver to his successor, all the books, papers and documents relating to the duties of his office.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of each brigade-inspector, at least once in every year, to inspect the arms, ammunition and accoutrements of the militia composing his brigade; to execute all orders which he may receive from the adjutant-general or commander-in-chief; to superintend the elections of field officers; to furnish all the necessary blank returns, the form of which shall be prescribed by the adjutant-general; to deliver or cause to be delivered, yearly and every year, on or before the first day of April, to each captain or commanding officer of a company, three blank inspection rolls and three blank class rolls, which several rolls the said captain or commanding officer of a company, is hereby directed to fill, and shall, under the penalty of twenty dollars, yearly deliver or cause to be delivered, one of each to the commanding officer of the regiment, one of each to the brigade-inspector, and the others he shall keep filed in his own possession; and the said inspector, when he has received the said returns, shall within twenty days, under the penalty of twenty dollars make out therefrom, three complete brigade returns, and deliver one to the adjutant general, one to the brigadier, and the other to the major general of the division; and he shall file in his office, all returns received by him, and a copy of all returns made to his superior officer; and it shall also be the duty of each brigade-inspector, when any class or classes of the militia are called to perform any tour of duty, immediately to notify every officer whose tour of duty it may be, and shall cause each noncommissioned officer and private

so called, to be notified by a written or printed notice, in the following words: "Take notice, that you are hereby required personally, or by sufficient substitute, to appear at properly armed and equipped for service, at the hour of _____ on _____ to march when required. Appeals to be heard at _____ on the _____ day of _____ . Given under my hand." By being delivered to him personally or left at his house or usual place of abode, at least three days before the time of assembling the said militia, by the commanding officer of each company, or by a sergeant or other fit person under his orders, who shall, if required, prove such notice on oath or affirmation, unless the governor, on a sudden exigency, shall think proper to order any part of the militia into immediate and actual service, in which case the notice mentioning such special order shall be given for immediate attendance; and any person refusing or neglecting to perform such tour of duty shall pay a fine of sixteen dollars per month for every such offence; and it shall further be the duty of the brigade inspector, forthwith after the marching of any part of the militia, to call to his assistance two reputable citizens, one whereof shall be a justice of the peace, to sit at the places named in the notices above directed to be served upon every militiaman so called out, and shall there hear and determine all appeals that may be made by the persons thinking themselves aggrieved by anything done in pursuance of such call, and they are hereby authorized and required to grant such relief to such appellant, as to them shall appear just and reasonable, and each of the said reputable citizens, before they enter on the said duties, shall take the following oath or affirmation, viz: That he will hear and impartially determine on the cases of appeal which may be laid before him, agreeably to law and according to the best of his knowledge; which oath or affirmation the inspector is hereby empowered to administer; and the justice and citizen shall have and receive from the said inspector, the sum of one dollar each for every day they shall sit on the said appeals, and the said inspector and justice of the peace, shall each keep a separate record of the

proceedings of such court of appeals; and the said inspector shall, within twenty days after such determination of appeals, make out and deliver, or cause to be delivered, to the state treasurer, to the register-general, and to the commissioners of the proper county, each a list of all such delinquents, as well those who have not appealed as those whose appeals shall have been determined against them, with the sums due from each respectively, which sums shall be collected and paid under the direction of the said commissioners, in the same manner and under the like penalties as fines from ex-emptis are directed to be collected in and by the first section of this act; and that each inspector shall receive for his services, the yearly salary of thirty dollars for each regiment belonging to his brigade, which he shall attend and inspect, and shall receive such reasonable allowance for expenses as he may have incurred or shall hereafter incur, for providing and repairing drums, fifes, colors, artillery and carriages, as he shall make appear to the register and comptroller-general to be really necessary; and before he enters upon the duties of his office, he shall give bond, with one or more sufficient sureties, in the penal sum of two thousand dollars, conditioned for the due and faithful performance of his duties, and for the faithful accounting for, and paying over all the moneys which shall come to his hands by virtue of this act; and each of the said inspectors shall, once in every twelve months, make out complete accounts of all moneys by him received, and of his expenditures, and return the same to the register-general, or in default thereof, shall forfeit and pay the sum of two thousand dollars; and on the removal or resignation of any of the said inspectors, such inspector, or in the case of his death, his executors or administrators, shall deliver up to his successor in office, or some other person duly authorized by the governor to receive the same, all and singular the books, papers and documents belonging to or in use in the said office, and on refusal thereof, he or they so offending, shall forfeit the sum of two thousand dollars, to be recovered by action of debt, in any court of record within this state; but from and after the passing of this act, no allowance shall

be made in the settlement of the accounts of any brigade inspector, for his attendance at the elections of any field or other officer, nor for pay to clerks or any other person that he may employ to perform any part of his duty.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the elections of such officers as are by this act declared to be elective, shall be made as follows: The several brigade inspectors shall, between the first day of May and the first day of August, in the year one thousand eight hundred and seven, and septennially thereafter, give notice, by advertisements at eight or more of the most public places of each regiment or battalion bounds or district, appointing a certain day for each district, not less than ten days after the said notice, and requiring all the enrolled inhabitants (not being exempts) in the said regiment or battalion, and residing within the bounds thereof, to meet at a certain place, or near the centre of said district as may be, and then and there, between the hours of ten in the morning and five in the afternoon of the said day, to elect by ballot, one lieutenant-colonel; and the enrolled inhabitants as aforesaid, of each battalion bounds respectively, shall elect by ballot as aforesaid, on the same or some other day, and at such place as shall be most convenient, but with the least possible delay, one major; and the enrolled inhabitants of each company bounds respectively (not being exempts) shall elect by ballot as aforesaid, on some other day, and at such place, within the bounds of such company as shall be most convenient, but with the least possible delay, one captain, one lieutenant, and one ensign, four sergeants and four corporals; previous to which said election or elections respectively, the said enrolled inhabitants shall elect two respectable citizens, to be under oath or affirmation, which the officer superintending the election is hereby authorized to administer, to preside as judges thereof, who shall certify to the inspector the names of the persons so elected; and the said inspector shall attend and superintend each and every of the said regiment or battalion elections, and after the officers are elected shall give notice thereof to the persons elected and transmit to the gov-

error a proper return of the officers elected, to be commissioned, mentioning the number of the regiment, the name of each person, and their respective ranks, and thereupon commissions shall be granted, agreeably to the intent of this act; and the majors shall attend and superintend all the elections of commissioned company officers within the bounds of their respective battalions, and report the same as aforesaid to the brigade inspector; and elections for officers in the light horse and artillery, shall be held and conducted in like manner as elections for officers in the infantry; and in every case of future vacancy, whether occasioned by death, resignation or otherwise, the commanding officer of the regiment, battalion, troop or company, as the case may be, shall give immediate information thereof to the brigade inspector, who shall, with the least possible delay, order elections to be held for filling such vacancies, agreeably to the manner hereinbefore described; but if any regiment, battalion, troop or company, being duly noticed and required as aforesaid, shall neglect or refuse to elect their officers as aforesaid, then it shall and may be lawful for the inspector of the brigade to which such regiment, battalion, troop or company belongs, to nominate (if the said election was to have been held for a field officer or officers) with the approbation of the brigadier-general, and (if for a commissioned company officer or officers) with the approbation of the field officers of the regiment, one suitable person to the governor, in the room of each officer so neglected to be chosen; and the governor approving thereof, shall commission the said person, which shall be as effectual, to all intents and purposes, as if the said officers had been elected as before directed; and the said inspector shall as soon as may be, acquaint the parties so neglecting or refusing with the appointments that shall have been made as aforesaid; but no change shall take place other than that provided for by the fourth section of this act, either in the divisions, brigades, or the numbers of the regiments of the city or the several counties of this commonwealth, until after the expiration of the seven years for which the officers were elected and commissioned, under the directions of an act passed on the ninth day of

April, one thousand seven hundred and ninety-nine, entitled "An act for the regulation of the militia of the commonwealth of Pennsylvania⁽¹⁾;" but that all commissions which may have issued or shall issue, to fill any vacancies subsequent to the first election held in conformity to the said act, shall expire and cease to be of effect at the end of seven years from the time of holding the said first general election, so that an entire and general election and appointment of all the officers of all and every of the divisions, brigades and regiments throughout the commonwealth, shall take place according to the directions and intent of this act, at the completion and expiration of seven years from the time of holding the first election aforementioned, under the before recited act, any term mentioned in any commission or commissions granted by the governor notwithstanding; but at least two months before such general election shall take place, the general officers of each division shall equalize the brigades, and the brigadier, brigade inspector and field officers, shall equalize the regiments in the respective brigades, and the field officers shall also equalize the companies in their regiments respectively, so that no regiment shall consist of more than one thousand nor less than five hundred men, and no company of more than one hundred nor less than sixty-four privates; and immediately after such general election of militia officers shall take place, when the rank of officers is not already determined by the date of commissions, the rank of the lieutenant colonels shall be determined by a lot, to be drawn in the presence of the brigadiers; and the rank of the majors and captains in the several regiments, to be determined in like manner by a lot, to be drawn in the presence of the lieutenant-colonel or commanding officer of the regiment.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if the election of any field officer shall be contested, the brigade inspector shall, on application to him made, by petition, signed by at least sixty-four of the enrolled militia of the regiment, give notice in writing, to the brigadier-general, and to two of the lieutenant-colonels of the brigade wherein such contest shall arise, who, or any

two of them, shall meet at some certain time and place, within the regiment bounds, of which ten days previous notice shall be given by the brigade-inspector, by three advertisements, to be put up at some of the public places within the bounds aforesaid; and it shall be the duty of them the said officers, so met, to hear the allegations and proofs of the parties, and thereupon shall either confirm the election, and certify the same to the governor, or order a new election, as justice may require; and if the election of a company officer shall be contested, a petition signed by at least twenty of the enrolled militia of the company wherein such contest shall happen, may be presented to the commanding officer of the regiment, who, together with the other field officers of the regiment, shall hear and determine the matter in controversy, they, or one of them, having first given the like notice, by advertisement, of the time and place of meeting, as is required in the case of a contest respecting the election of a field officer.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That in order to give respectability and permanency to the militia arrangements of this state, the regiments shall be numbered and called as follows, to wit: In the city of Philadelphia, the regiment commanded by lieutenant-colonel Pancake, shall be No. 24; by lieutenant-colonel Willis, No. 25; by lieutenant-colonel Bright, No. 28; by lieutenant-colonel M'Lane, No. 50; by lieutenant-colonel Barker, No. 84; in the county of Philadelphia, the regiment commanded by lieutenant-colonel Forepauch, shall be No. 42; by lieutenant-colonel M'Mullen, No. 67; by lieutenant-colonel Beck, No. 75; by lieutenant-colonel Worrell, No. 80; and the regiment commanded by lieutenant-colonel Coates, No. 88: In the county of Montgomery, the regiment commanded by lieutenant-colonel Henderson, shall be No. 36; by lieutenant-colonel Wentz, No. 51; by lieutenant-colonel Hart, No. 56; and by lieutenant-colonel Davis, No. 86: In the county of Bucks, the regiment commanded by lieutenant-colonel Smith, shall be No. 15; by lieutenant-colonel Piper, No. 31; by lieutenant-colonel Clunn, No. 32; and by lieutenant-colonel Vansant, No. 48: In the county of Chester, the regiment com-

manded by lieutenant-colonel Grier, shall be No. 27; by lieutenant-colonel Armstrong, No. 47; by lieutenant-colonel Taylor, No. 85; by lieutenant-colonel Cochran, No. 97; by lieutenant-colonel Harris, No. 44; and by lieutenant-colonel Ralston, No. 92: In the county of Delaware, the regiment commanded by lieutenant-colonel Smith, shall be No. 65; and by lieutenant-colonel Richards, No. 100: In the county of Lancaster, the regiment commanded by lieutenant-colonel Wright, shall be No. 5; by lieutenant-colonel Ensminger, No. 7; by lieutenant-colonel Kline, No. 120; by lieutenant-colonel Thomas, No. 121; by lieutenant-colonel Boyd, No. 34; by lieutenant-colonel Boal, No. 60; by lieutenant-colonel Whitehill, No. 98; and by lieutenant-colonel Long, No. 104: In the county of York, the regiment commanded by lieutenant-colonel Black, shall be No. 40; by lieutenant-colonel Kelly, No. 41; by lieutenant-colonel Reisinger, No. 61; by lieutenant-colonel Hendricks, No. 111; by lieutenant-colonel Spangler, No. 13, and by lieutenant-colonel Hinckel, No. 124: In the county of Adams, the regiment commanded by lieutenant-colonel Kuhn, shall be No. 9; by lieutenant-colonel Getty, No. 20; and by lieutenant-colonel King, No. 93: In the county of Berks and Dauphin, the regiment commanded by lieutenant-colonel Baum, shall be No. 37; by lieutenant-colonel Frailey, No. 43; by lieutenant-colonel Schreader, No. 69; by lieutenant-colonel Epler, No. 79; and by lieutenant-colonel Kline, No. 114: In the county of Dauphin, the regiment commanded by lieutenant-colonel Weirich, shall be No. 3; by lieutenant-colonel Elder, No. 66; by lieutenant-colonel Toot, No. 78; by lieutenant-colonel Anspach, No. 95; and by lieutenant-colonel Sebold, No. 117: In the county of Cumberland, the regiment commanded by lieutenant-colonel Bovard, shall be No. 12; by lieutenant-colonel Ewalt, No. 21; by lieutenant-colonel Urie, No. 49; by lieutenant-colonel Roan, No. 59; by lieutenant-colonel Martin, No. 87; and by lieutenant-colonel Ruply, No. 116: In the county of Franklin, the regiment commanded by lieutenant-colonel Findlay, shall be No. 1; by lieutenant-colonel Alexander, No. 64; by lieutenant-colonel Statler, No. 68; by lieutenant-colonel Rhea, No. 73; and by lieutenant-colonel Scott, No. 96: In the counties of North-

ampton and Wayne, the regiment commanded by lieutenant-colonel Wetzel, shall be No. 13; by lieutenant-colonel Ohl, No. 38; by lieutenant-colonel Rinker, No. 94; by lieutenant-colonel Kestler, No. 101; by lieutenant-colonel M'Keen, No. 118; by lieutenant-colonel M'Ferren, No. 8; by lieutenant-colonel Horn, No. 71; by lieutenant-colonel Dingman, No. 103; by lieutenant-colonel Stanton, No. 110; and by lieutenant-colonel Shoup, No. 115: In the counties of Northumberland, Lycoming and Luzerne, the regiment commanded by lieutenant-colonel Ransom, shall be No. 35; by lieutenant-colonel Faulkner, No. 45; by lieutenant-colonel Spalding, No. 57; by lieutenant-colonel Montgomery, No. 81; by lieutenant-colonel Rupert, No. 112; by lieutenant-colonel Giffin, No. 123; by lieutenant-colonel Hyde, No. 129; by lieutenant-colonel Cummings, No. 4; by lieutenant-colonel Abraham M'Kenny, No. 18; by lieutenant-colonel Baldy, No. 39; by lieutenant-colonel Drum, No. 77; by lieutenant-colonel John M'Kenny, No. 102; and by lieutenant-colonel Roberts, No. 106: In the county of Mifflin and parts of Centre, the regiment commanded by lieutenant-colonel M'Dowell, shall be No. 11; by lieutenant-colonel Beale, No. 52; by lieutenant-colonel Bratton, No. 74; by lieutenant-colonel Banks, No. 83; by lieutenant-colonel Craig, No. 89; and by lieutenant-colonel Myers, No. 131: In the county of Huntingdon and part of Centre, the regiment commanded by lieutenant-colonel Moore, shall be No. 14; by lieutenant-colonel Fee, No. 33; by lieutenant-colonel Cromwell, No. 46; by lieutenant-colonel Holiday, No. 58; and by lieutenant-colonel Entricken, No. 119: In the county of Fayette, the regiment commanded by lieutenant-colonel Collins, shall be No. 72; by lieutenant-colonel Oliphant, No. 90; by lieutenant-colonel Brashiers, No. 91; and by lieutenant-colonel Whaley, No. 108: In the counties of Bedford and Somerset, the regiment commanded by lieutenant-colonel Clarke, shall be No. 10; by lieutenant-colonel Agnew, No. 55; by lieutenant-colonel Bonnet, No. 105; by lieutenant-colonel Kimmel, No. 109; by lieutenant-colonel Moore, No. 127; and by lieutenant-colonel Boyls, No. 128; In the counties of Washington and Greene, the regiment commanded by lieutenant-colonel Atchison, shall be No. 22; by lieutenant-colonel Mar-

shall, No. 23; by lieutenant-colonel Hare, No. 53; by lieutenant-colonel Stevenson, No. 82; by lieutenant-colonel Heaton, No. 6; by lieutenant-colonel Jenkins, No. 99; by lieutenant-colonel M'Cleland, No. 122; and by lieutenant-colonel Cather, No. 130: In the county of Allegheny and in that part of Butler county which is included in lieutenant-colonel Gilliland's regiment, and in that part of Beaver county which lies south of the river Ohio, the regiment commanded by lieutenant-colonel Martin, shall be No. 16; by lieutenant-colonel Gilliland, No. 29; by lieutenant-colonel Cunningham, No. 62; by lieutenant-colonel Noble, No. 76; and by lieutenant-colonel M'Farland, No. 125: In the county of Westmoreland, the regiment commanded by lieutenant-colonel Bonnet, shall be No. 2; by lieutenant-colonel Wagle, No. 19; by lieutenant-colonel M'Combs, No. 30; by lieutenant-colonel Campbell, No. 54; by lieutenant-colonel M'Dowell, No. 63; by lieutenant-colonel Hunter, No. 7: In the counties of Armstrong, Erie, Butler, Crawford, Warren, Mercer, Venango, and part of Beaver, the regiment commanded by lieutenant-colonel Forster, shall be No. 17; by lieutenant-colonel Sproat, No. 26; by lieutenant-colonel Reed, No. 107; and by lieutenant-colonel Sloan, No. 125; and all regiments hereafter to be formed, shall follow these in numerical order; but nothing contained in this section shall be construed as giving preference of rank to the officers, which shall at all times be determined by the dates of commissions, or the drawing of lots for that purpose.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That every militiaman removing out of the bounds of one company into the bounds of another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge in writing, certifying the class to which he belongs, and whether he has served his tour of duty or not; and the time and date of his services; which certificate the said militiaman shall produce to the captain or commanding officer of the company in whose bounds he next settles, within ten days after his settlement, under the penalty of two dollars; and the said captain

or commanding officer is hereby required to enroll him in the class specified in the said certificate.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the whole of the militia of this state (except as herein excepted) shall be trained and exercised in companies, troops, battalions and regiments, by their respective officers, in every year as follows, to wit: In companies, on the first Monday in the month of May, and on the first and second Mondays in the month of October, and the first regiment in each and every brigade, on the third Monday in the months of May and October, the second regiment on Tuesday, and so on, according to such order as the brigade inspector shall prescribe, on every day of the week (Saturday and Sunday excepted) of which one month's previous notice shall be given by the brigade inspectors respectively, until the whole number of regiments shall have mustered and exercised in the aforesaid manner, and at such places as the field officers of each regiment, or a majority of them, shall agree upon; provided they shall not enter into any person's enclosure, without the consent of the owner first obtained; and no militiaman shall, after the first day of October, in the year one thousand eight hundred and three, be admitted into the ranks of any company, without a sufficient musket, rifle or firelock, except those between the ages of eighteen and twenty-one years, and such others as the officers of the company shall deem unable to procure arms at their own expense; such person shall be liable as for nonattendance on days of exercise; and if any militiaman who shall not be admitted into the ranks without arms as aforesaid, shall be fined on any day of training, on account of not having such arms, and shall conceive himself aggrieved, he may appeal to the field officers of the regiment to which he belongs, who shall consider his circumstances, and grant such relief as to them, or a majority of them, shall appear just and reasonable.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if any commissioned or staff officer shall, without a lawful excuse, neglect or refuse

to attend on any of the days herein appointed for exercise, such delinquent officer or officers shall be returned to the proper court of appeal by the commanding officer present; if a field officer, he shall forfeit and pay the sum of four dollars, and every other commissioned or staff officer, shall forfeit and pay the sum of two dollars, to be recovered as other fines for nonattendance, and subject to like appeals; and every non-commissioned officer or private so neglecting or refusing to attend, shall forfeit and pay the sum of one dollar for every such neglect or refusal, except such officer or private shall be summoned and actually attending on any of the days of exercise aforesaid, as a juror or witness in any court within this commonwealth, and the same fines shall be respectively paid by every officer, noncommissioned officer or private who shall leave the parade on any day of training before the regiment or company is discharged, without leave first had and obtained of the officer commanding; and the master or mistress of any apprentice, and the father or mother of any minor liable to serve in the militia, who shall refuse or neglect to perform the several duties required of him by this act, such minor being in the service of his father or mother, master or mistress, shall be respectively accountable for the fine or fines so incurred by such minor or apprentice.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That in order to ascertain those persons who by their absence on days of exercise, shall have incurred the fines before mentioned, a sergeant, or the clerk of each company, on every such day, in the presence of the captain or commanding officer of the company, at the end of one hour after the time appointed for the meeting of the company, battalion or regiment, and also after the exercise is over, and before the men are dismissed, shall call over the muster roll of the company, noting those who are absent, and within two days after every company or regimental meeting, a return shall be made by him to the captain or commanding officer of each company, under the penalty of five dollars for every time he shall neglect or refuse to make such return of all the absentees on the several days of exercise, particularly

designating the day on which each default was made; and it shall be the duty of the commanding officer of each regiment annually, in regimental orders, to be issued previous to the days appointed by this act for training the militia in the months of May and October, to appoint six commissioned officers, three to preside in each battalion for the current year, as a court to hear appeals, who when sitting at such court, shall be under oath or affirmation, to be administered by any judge or justice of the peace, to perform their duty with fidelity and impartiality; and who shall, in not less than ten, nor more than fifteen days after the meeting of the regiment in the months of May and October annually, hear the appeal of every person conceiving himself aggrieved and applying to be heard; and if it shall appear to the satisfaction of the court of his proper battalion, that by lameness or sickness, or any unavoidable necessity, his attendance was rendered impracticable on the day or days for which he may stand charged, the said court shall remit the fine or fines incurred, for the reasons aforesaid only; but no excuse shall be received, nor redress given by them, at any other time, or in any other manner than is before mentioned.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That no certiorari or other writ, shall in any case issue from any court of law or equity of this commonwealth, to remove any proceedings that shall be had in any court of appeal or court martial, held under and by virtue of this act, and that no court of law or equity of the said commonwealth, shall in any case hear, sustain, determine, or in any manner take cognizance of appeals that may be offered or attempted, from any sentence or decree passed or made by such courts of appeal or court martial, any law, usage, or practice, to the contrary in any wise notwithstanding.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That for the purpose of collecting and levying as well the fines that shall be incurred for non-attendance on days of training, as those which shall be imposed by regimental courts martial, the president of the

court martial, if the fine was imposed by a court martial, and the commanding officer of the company, if the fine was incurred for nonattendance on any day or days of training, within ten days after the passing of the sentence or decree of the court of appeal or court martial, shall be obliged, and under the penalty of fifty dollars for every neglect or refusal therein, he is hereby enjoined to issue a warrant under his hand and seal, directed to some constable, commanding him to collect and levy the said fine or fines; and the said constable shall be authorized, and he is hereby enjoined and required, under the penalty of twenty dollars, to call on every delinquent who shall be named in such warrant, or in a schedule or list thereto annexed, and demand payment of the said fine or fines, and of five per centum on the amount thereof, for his trouble in collecting the same; and on neglect or refusal to make such payment, after demand thereof so as aforesaid made, then the said constable having the said warrant, is hereby required to proceed to collect the said fines, together with costs, in the same manner, and with like power and effect as constables are required to proceed with executions issued by virtue of the act for the more easy and speedy recovery of small debts, passed the first day of March, 1745-46⁽⁶⁾; but if any such constable, for the space of thirty days after the receipt of such warrant, endorsed with the time of delivering the same by the president of the court martial, or the commanding officer of a company, as the case may be, shall neglect or refuse to pay unto the paymaster of the regiment, or other person by this act entitled to receive the same, the whole amount of the fines in the said schedule or list contained, such constable, for every such neglect or refusal, shall forfeit and pay to the said paymaster, for the use of the regiment, double the amount of all the fines marked on the said schedule or list, which shall not within the said thirty days have been paid over to the proper paymaster, excepting therefrom only such fines as the field officers of the regiment, or a majority of them, who are hereby constituted a board for the purpose, and who, when sitting as such, shall be under oath or affirmation, shall annually on the fourth Monday of November, adjudge it to have been imprac-

ticable or improper for the said constable to collect and obtain; and it shall be the duty of the said paymaster of the regiment, on the said fourth Monday of November, yearly and every year, to make out a fair and clear statement of his accounts, and lay the same before the field officers and any two captains of the regiment, who shall examine it, and having certified the balance, as it shall appear to them on the said statement, one copy thereof shall remain with the paymaster, and another be lodged with the colonel or commanding officer of the regiment; but if any paymaster shall neglect or refuse to make a statement of his accounts in manner aforesaid, or when duly required, shall neglect or refuse to surrender all the papers, books and accounts belonging to his office, to his successor, for every such neglect or refusal, of which a regimental court martial shall judge, such paymaster, or his executors, administrators, or others possessing such books, papers or accounts, shall forfeit and pay for the use of the regiment, the sum of one hundred dollars, to be recovered by the quartermaster of the regiment, in the same manner as is provided by the thirty-third section of this act for the collection of fines imposed on other officers.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That for the collection of all the fines in arrears, which have been incurred under the act, entitled "An act for the regulation of the militia of the commonwealth of Pennsylvania," passed the ninth day of April, one thousand seven hundred and ninety-nine⁽¹⁾, the several captains or commanding officers of companies shall have and exercise the same powers, except that of holding appeals, with which they are vested by the nineteenth section of this act, for the collection of such fines as may be hereafter incurred, and they are hereby severally enjoined and required, on or before the first Monday of September next, to issue their respective warrants for the collection of the fines so as aforesaid in arrears, under the penalty of fifty dollars each, for every neglect or refusal, to be recovered as officers fines are recoverable by the thirty-third section of this act.

and pay over the said fine. Given under my hand and seal
the _____ day of _____, one thou-
sand eight hundred and _____.

A. B. President. (L. S.)

To

collector.”

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the commanding officer of each company under the penalty of twenty dollars, to transmit a list of the names of all the absentees, and the fines charged for nonattendance on day of training, as also the names of the exempts, to the officers holding the appeals, and the said court of appeals shall, under the penalty of twenty dollars each, transmit a general return of the delinquent fines charged, to the commanding officer of the regiment, and one copy to the paymaster thereof; and each captain or commanding officer of a company, shall receive one dollar per day for making the several returns required of him by this act; and officers holding courts of appeal and regimental courts martial, shall each receive one dollar per day, to be paid by the paymaster of the regiment in which such duty is performed, on orders drawn by the lieutenant colonel or commanding officer thereof; and each paymaster shall have a book for the keeping of accounts, to be paid for out of the regimental fund, and shall for performing the several duties enjoined on him by this act, receive five per centum on all moneys that come into his hands; and officers holding general courts martial, shall be paid each for his services, one dollar per day, to be paid by the inspector of the brigade in which such court martial is held, on orders signed by the president of the court, to be allowed to such brigade inspector on the settlement of his accounts.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That whenever it may be necessary to call into actual service any part of the militia, in case of rebellion, or of an actual or threatened invasion of this or any of the neighboring states, then it shall and may be lawful for the governor to order into actual service such part of the militia, by classes, as the exigency may require. Pro-

vided, that the part so called, doth not exceed four classes of the militia of any brigade. And provided also, that such brigade or brigades shall not be again called into actual service until an equal number of the classes of the militia of the other brigade or brigades respectively, be first called, unless the danger of an invasion from Indians or others should make it necessary to keep in reserve the militia of such brigade or brigades for immediate defense; and the companies in each regiment or battalion of the state, shall within one year after the passing of this act, be divided into eight classes, where the same is not already done; all flank companies, whether of grenadiers, light infantry, or riflemen, shall be called into service by companies or parts of companies, and not by classes, the first flank company shall make part of the fifth call of the militia, and be commanded by their own proper officers; and every flank company to be formed in future, shall be formed under the direction and approbation of the field officers of the regiment, to consist of not less than sixty-four privates, and composed of men actually resident within the bounds of the regiment to which they are to be attached, and not otherwise.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That the militia, when called by classes to perform a tour of duty, shall be officered in the following manner, that is to say: For the first draft, the captain of the first company, the lieutenant of the second, and ensign of the fourth; second draft, the captain of the second company, the lieutenant of the first, and the ensign of the third; third draft, the captain of the third company, the lieutenant of the fourth, and the ensign of the second; fourth draft, the fourth captain, the lieutenant of the third company, and the ensign of the first; the fifth draft, the fifth captain, the lieutenant of the sixth, and ensign of the eighth; sixth draft, the sixth captain, the lieutenant of the fifth company, and the ensign of the seventh; seventh draft, the captain of the seventh company, the lieutenant of the eighth, ensign of the sixth; eighth draft, the captain of the eighth company, the lieutenant of the seventh, and the ensign of the fifth; non-commissioned officers to take their tour of duty with the com-

missioned officers, and the routine of the field officers shall be according to the date of their respective commissions; the first colonel of the brigade shall command the first detachment, if it amounts to a colonel's command, but if it does not, the command shall devolve upon the first major; and each draft shall be liable to serve two months and no longer, and to be relieved by the class next in numerical order, the relief to arrive at the place of destination at least two days before the expiration of the term of the class to be relieved; but nothing herein contained shall prevent the governor from employing and calling out part of any class, or any company or companies, regiment or regiments, without respect to this rule, whenever the exigency is too sudden to admit of the assembling of the militia in the ordinary way; and the service of the person or persons so called out, shall be accounted as part of his or their tour of duty; and the pay of the militia in actual service shall commence two days before marching, and they shall receive pay and rations at the rate of fifteen miles per day, on their return home.

Section XXVI. (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That when any detachment of the militia shall be called into service, the captain of each company shall take care that his proportion of men are assembled and marched to the proper place of parade, under the care of a commissioned officer or sergeant, with a list of the men which list shall be delivered to the adjutant of the regiment, whose duty it shall be to attend at the place appointed, to receive the detachments from the several companies of his regiment, and he shall make out a roll of the whole, mentioning the rank of the officers and the names of the non-commissioned officers and privates; and when the detachments shall be completed and placed under the command of the proper officer, he shall attend them to the place appointed for the meeting of the detachment of the brigade, where the several adjutants shall each deliver a list of the detachment from his regiment, to the brigade inspector, whose duty it shall be to attend at the place appointed for assembling the detachment from his brigade,

and to furnish a complete list thereof to the commanding officer of the detachment, noting particularly in detail, the officers, noncommissioned officers and privates from the respective regiments within his brigade; and it shall furthermore be the duty of said brigade inspector to march with such detachment to the place of general rendezvous appointed for the whole of the militia called out, and there deliver to the commanding officer, a duplicate of the list aforesaid; and it shall be the duty of such commanding officer to make a general return of the whole detachment, noting particularly the detail from each brigade, certified under his hand, and shall cause the same to be delivered to the adjutant-general within ten days after the marching of his detachment, under the penalty of fifty dollars.

Section XXVII. (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That whenever the militia are called into actual service of this state, or of the United States, it shall and may be lawful for the governor, if he may deem it expedient, to organize the cavalry into brigades, regiments, squadrons and troops, so that each brigade shall consist of four regiments, each regiment of two squadrons, each squadron of four troops, in such manner that no troop shall consist of more than one hundred nor less than sixty-four non-commissioned officers and privates, to be officered as follows: To each brigade, one brigadier-general and one brigade major, with the rank of major; to each regiment, one lieutenant-colonel commandant and two majors, a first and second; to each squadron, one major; to each troop, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier and one trumpeter. The general officers shall be appointed by the governor, and the elections for field officers shall be held at the place of general rendezvous appointed after such call, and conducted as nearly as may be, according to the directions prescribed by this act for the elections of other field officers; the brigadier-generals shall appoint their brigade majors, and the field officers of each regiment shall appoint their respective regimental staffs.

Section XXVIII. (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for any person called to perform a tour of duty, to find a sufficient substitute, such substitute being approved of by the captain or commanding officer of the company in which he shall be offered to serve. Provided always, that if any substitute shall be called in his own turn into actual service before the term expires which he was to serve for his employer, then the person procuring such substitute shall march, or find a sufficient person to march in his said substitute's turn, or be liable to pay his fine for neglect, which fine is to be recovered as other fines for neglect of serving are by this act recoverable, and that sons who are not subject to the militia law, may be admitted as substitutes for their fathers.

Section XXIX. (Section XXIX, P. L.) And be it further enacted by the authority aforesaid, That when the militia, or any detachment thereof, are called out on duty, they shall be entitled to like pay and rations as are or shall be provided for the army of the United States, and that every person refusing or neglecting to perform his tour of duty, in person or by substitute, shall pay the sum of twelve dollars for every such neglect or refusal if the tour was to be for a term not exceeding one month, and in proportion if the tour was to be for any longer or shorter term.

Section XXX. (Section XXX, P. L.) And be it further enacted by the authority aforesaid, That the division composed of the militia of the city and county of Philadelphia, by direction of the general officers thereof, if they see cause, and by and with the consent of the commanding officers of the respective regiments, is hereby authorized to meet in division or brigade, on any of the days appointed by this act for training the militia in regiments; and the commanding officers of the several and respective regiments composed of the militia residing northwest of the rivers Ohio and Allegheny and Conewango creek, and that part of Wayne county above the Barrens, are hereby authorized and empowered to cause the same (if they may deem it expedient) to meet and exercise in battal-

ions, on any of the days appointed by this act for training in regiments.

Section XXXI. (Section XXXI, P. L.) And be it further enacted by the authority aforesaid, That the following articles, rules and regulations, shall be those by which the militia shall be governed:

Article 1. If any field or other commissioned officer, at any regimental review, or on any other occasion, when the regiment, battalion, troop or company to which he may belong, or in which he holds a command, is paraded in arms, shall misbehave, or demean himself in an unofficerlike manner, or shall on any such occasion neglect or refuse to obey the orders of his superior officer, he shall for every such offence, be cashiered or punished by fine, at the discretion of a general or regimental court martial, as the case may require, in any sum not exceeding sixty-dollars; and if any noncommissioned officer or private, shall on any occasion of parading the company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be drunk, or shall disobey orders, or shall use any reproachful or abusive language to his officers, or any of them, or shall quarrel or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard by order of the commanding officer present, until the company is dismissed, and shall be fined at the discretion of a regimental court martial, in any sum not exceeding ten dollars, nor less than two dollars.

Article 2. If the lieutenant-colonel or commanding officer of any regiment, shall neglect or refuse to give orders for assembling his regiment at any time or times appointed by law, or at the discretion of the inspector of the brigade to which he belongs, when the said inspector is thereto commanded by the governor, or in case of an invasion of the city or county to which such regiment belongs, he shall be cashiered, and punished by fine not exceeding two hundred dollars, at the discretion of a general court martial; and if a commissioned officer of any company, shall on any occasion neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the discretion of his lieutenant-

colonel or commanding officer of the regiment to which such company belongs, he shall be cashiered and punished by fine, not exceeding sixty dollars, at the discretion of a regimental court martial; and a noncommissioned officer offending in such case, shall be fined at the discretion of a regimental court martial, in any sum not exceeding twenty dollars.

Article 3. If any captain or commanding officer of a company shall refuse or neglect to make out a list of the persons noticed to perform any tour of duty, and send or convey the same to the lieutenant-colonel or commanding officer of the regiment to which such company may belong, for such neglect or refusal he shall be cashiered or fined, at the discretion of a regimental court martial, in any sum not exceeding forty dollars.

Article 4. If any militiaman shall desert while he is on a tour of duty, he shall be fined twenty-four dollars for every such offence, and be obliged to march on the next tour of duty, under the same penalties as at first; if a noncommissioned officer shall so desert, he shall be degraded and placed in the ranks, shall pay a fine of thirty dollars, and be obliged to serve another tour as a private.

Article 5. Every general court martial shall consist of thirteen members, all of whom shall be commissioned officers, and of such rank as the case may require, and these thirteen shall choose a president out of their number, who shall not be under the rank of a field officer.

Article 6. Every regimental court martial shall be composed of five members, all commissioned officers, who are to choose one of their members a president, not under the rank of captain, and every court martial whether general or regimental, shall appoint a commissioned officer or other fit person to officiate as judge advocate.

Article 7. In any court martial, not less than two thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

Article 8. The president of each and every court martial, whether general or regimental, shall require all witnesses, in order to the trial of offenders, to declare on oath or affirma-

tion, that the evidence they shall give, is the truth, the whole truth, and nothing but the truth; and the members of all such courts shall take an oath or affirmation, which the president is required to administer to them, that they will give judgment with impartiality.

Article 9. Every court martial shall have power and authority to issue compulsory process against all and every person or persons who shall neglect or refuse to attend for the purpose of giving evidence in any case therein pending.

Article 10. No officer or private, being charged with transgressing these rules, shall be suffered to do duty in the regiment, company or troop to which he belongs, until he has had his trial by a court martial; and every person so charged shall be tried as soon as a court martial can conveniently be assembled; and every officer under arrest, shall be furnished by the adjutant general, the brigade inspector, or adjutant of the regiment, as the case may require, with a copy of the charge exhibited against him, at least ten days before his trial, that he may have an opportunity to prepare his defense.

Article 11. If any officer or private shall think himself injured by his lieutenant-colonel or the commanding officer of the regiment, and shall upon due application made to him, be refused redress, he may complain to the brigadier-general, who shall direct the inspector of the brigade to summon a general court martial, that justice may be done.

Article 12. If any officer or private shall think himself injured by his captain or other superior officer in the regiment, troop or company to which he belongs, he may complain to the commanding officer of the regiment, who shall summon a regimental court martial, for doing justice, according to the nature of the case.

Article 13. No penalty shall be inflicted by a court martial, other than degrading, cashiering, or fining; and all fines imposed by regimental courts martial, shall be collected and paid into the hands of the paymaster, as directed by the nineteenth section of this act.

Article 14. The commanding officer of the militia for the time being, shall have full power of pardoning or mitigating

any censures or penalties ordered to be inflicted by a general court martial, on any officer, noncommissioned officer or private, for the breach of any of these articles; and every offender, convicted as aforesaid, by any regimental court martial, may be pardoned or have the penalty mitigated by the lieutenant-colonel or commanding officer of the regiment, excepting only where such censures or penalties are directed as satisfaction for injuries received by one officer or private, from another; but in case of officers, such sentence to be approved by the commander in chief of the militia, who is empowered to pardon or mitigate such sentence, or disapprove the same.

Article 15. That if any commissioned officer shall at any time, or upon any occasion, behave in an unofficerlike, ungentelemanly, or disgraceful manner, the commander in chief, if the person accused be a major-general, the major-general of the division, if a brigadier, the brigadier, if a field officer, or the lieutenant-colonel, if an inferior officer, as the case may be, upon the application of any commissioned officer, shall appoint a board of three officers to enquire into the matter of complaint, and if upon their report it shall appear to him deserving of trial, then and in such case he shall direct a court martial, whose proceedings herein shall have the same effect as if the offence had been committed when on actual duty.

Article 16. The militia, on the days of training, shall be detained under arms, on duty in the field, any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without allowing a proper time to refresh themselves.

Article 17. All fines that shall be imposed by a general, division, or brigade court martial, for any breach of these rules, shall be paid into the hands of the inspectors of the brigades to which the offenders belong, or to such person or persons as he shall appoint and make known in brigade orders, as his agents or attorneys to receive the same, within three weeks after they become due; but in case of neglect or refusal to pay any of the said fines, the said inspector shall

cause the same to be levied and collected in the manner hereinafter mentioned.

Article 18. The rules of discipline approved and established by Congress, in their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia throughout this state, except such deviations from said rules as may be rendered necessary by the requisitions of the acts of Congress or of this state, or some other unavoidable circumstances; and it shall be the duty of the commanding officer, at every training, whether by regiment, battalion or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline; and the instructions laid down by the baron Steuben, and annexed to the said rules of discipline, pointing out the respective duties of the officers, noncommissioned officers and privates, are recommended and enjoined upon the militia of this state, as particularly and fully as if the said instructions were repeated and expressed in this act at length.

Article 19. The militia of this state, whilst in the actual service thereof, or of the United States, shall be subject to the same rules and regulations as the federal army. Provided, that upon any transgression or offence of a militiaman, whether officer or private, against the rules and regulations of the federal army, the cause shall be tried and determined by a court martial of the militia of this state, and that it shall be in the power of the governor, or in case of his absence, of the commanding officer of the militia, to mitigate, suspend, or pardon any punishment to which any militiaman may be sentenced by a general court martial; and it shall be the duty of the captain or commanding officer of each company, under the penalty of five dollars for every neglect, to read or cause to be read, the foregoing articles, at least once in every year, on some company day of training.

Section XXXII. (Section XXXII, P. L.) And be it further enacted by the authority aforesaid, That no civil process shall be served on any commissioned officer, noncommissioned officer or private, at any regimental or battalion review, or train-

ing of any company, or while going to or returning from the place of such review or training.

Section XXXIII. (Section XXXIII, P. L.) And be it further enacted by the authority aforesaid, That all and every of the fines and forfeitures by this act made payable, for the recovery of which no mode is hereinbefore pointed out, shall be recovered by the inspectors of the several brigades, in the name and for the use of the commonwealth, by action of debt, before a justice of the peace, or in any court of record within this commonwealth, as from the amount thereof they shall be more properly cognizable; and the said inspector shall render his accounts for all moneys by him received and disbursed by virtue of this act, to the register-general, for settlement, every twelve months; and in case of the refusal or neglect of any brigade inspector to render his accounts as aforesaid, the register-general and the comptroller-general, are hereby empowered and directed to proceed against him in like manner as they are or may be authorized and empowered to proceed against delinquent county treasurers, to compel the settlement of their accounts, and the payment of moneys due the commonwealth thereon, into the state treasury.

Section XXXIV. (Section XXXIV, P. L.) And be it further enacted by the authority aforesaid, That all moneys paid into the treasury by virtue of this act, shall be appropriated for the purpose of equipping and furnishing the militia with arms and every necessary apparatus for the defence and security of the state, and the treasurer of the commonwealth shall keep separate accounts of the same.

Section XXXV. (Section XXXV, P. L.) And be it further enacted by the authority aforesaid, That the brigade inspector and two reputable citizens shall appraise the horse of each officer who is entitled by the rules of war to keep a horse, and the horse of each person serving as a lighthorseman, immediately before every time of going into actual service, and enter such appraisement in a book, and in case such horse shall be killed, or die in actual service, or be taken by the enemy, otherwise than by neglect of the owner, on his pro-

ducing to the department of accounts, a certificate of the loss of said horse, signed by the commanding officer of the detachment to which he belonged whilst in actual service, together with a certificate of the valuation so as aforesaid directed to be made, he shall thereupon be paid the full amount of such appraisement, by an order to be drawn in the usual manner, on the state treasurer, to be paid out of the militia funds.

Section XXXVI. (Section XXXVI, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall knowingly sell, buy, take or exchange, conceal, or otherwise fraudulently or unlawfully receive, hold, or detain, or shall refuse to deliver up to the proper brigade inspector, after he shall give public notice thereof, any arms, accoutrements, colors or drums belonging to this state, or to the United States, on any account or pretense whatsoever, the person so offending, being convicted thereof before any justice of the peace or alderman of the city or county where such offence shall be committed, shall forfeit and pay for every such offence, treble the value of such arms and accoutrements, to be ascertained by such justice or alderman, and levied at the suit of the said brigade inspector, by distress and sale of the offender's goods and chattels, by the justice or alderman before whom such offender shall be convicted, returning the overplus, if any, on demand, to such offender; and for want of such distress, shall commit such offender to the common jail of the county, there to remain without bail or mainprize, for any term not exceeding one month, unless such money be sooner paid.

Section XXXVII. (Section XXXVII, P. L.) And be it further enacted by the authority aforesaid, That the adjutant-general shall issue his orders to the respective brigade inspectors, requiring them to collect all the arms that were the property of this commonwealth, on or before the twenty-eighth day of March, one thousand seven hundred and ninety-seven, within their respective brigades, and within three months after the receipt of such orders, to make report to him of the number so collected, and the condition they are in, and whether such arms were in the hands of public officers or

private persons; whereupon the adjutant-general shall cause all such arms to be equally distributed to the respective brigade inspectors, in proportion to the number of enrolled militia in each brigade, who shall employ a suitable person to repair such arms, if necessary, and when repaired, on producing the account by the person repairing the same, to the brigade inspector, he shall, if he approve thereof, endorse his warrant on the same, directed to the treasurer of the county, in favor of such person, for the amount thereof, which warrant, if countersigned by the commissioners of taxes, or a majority of them, shall be a voucher to the treasurer in settling his accounts with the register and comptroller-generals, who are hereby authorized and directed to investigate and adjust the same in like manner as other accounts are settled; and the respective brigade inspectors shall distribute them to the commanding officers of the respective regiments within such brigade, in due proportion to the number of men in each regiment, taking an accountable receipt therefor; and the commanding officers of the respective regiments shall cause all such arms to be distributed amongst the different captains or commanding officers of each company within their respective regiments, taking receipts therefor as aforesaid; and it shall be the duty of such officers to dispose of said arms in the manner hereinafter provided.

Section XXXVIII. (Section XXXVIII, P. L.) And be it further enacted by the authority aforesaid, That if any suit or suits shall be brought or commenced against any person or persons, for anything done in pursuance of this act, the action shall be laid in the county where the cause of such action did arise, and not elsewhere; and the defendant or defendants in such action or actions to be brought, may plead the general issue, and give this act and the special matter in evidence; and if the jury shall find for the defendant or defendants in such action or actions, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his or their action or actions after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendants shall have treble

costs, and have the like remedy for the same as any defendant or defendants hath or have in other cases, to recover costs by law.

Section XXXIX. (Section XXXIX, P. L.) Whereas in and by an act to provide arms for the use of the commonwealth, passed the twenty-eighth day of March, one thousand seven hundred and ninety-seven,⁽²⁾ it is directed that a due proportion of said arms shall be delivered to the colonel or commanding officer of each regiment, and lodged in a suitable place or places of deposit, under the care of the field officers. And whereas it becomes necessary that some further provision be made for the use and disposal of the said arms, and of such other arms as shall hereafter be purchased and procured for the use of the militia of this commonwealth; therefore,

Be it further enacted by the authority aforesaid, That when any number of arms shall be delivered to the commanding officer of a regiment or battalion, he shall, as soon as may be, divide such arms among the companies of the regiment, having due regard to the number of men in each, and taking a responsible receipt from each captain for the arms delivered to him for the use of his company; and the arms so delivered shall be marked with the number of the regiment and company, and numbered from one progressively; and it shall be the duty of each captain or commanding officer of the respective companies, to appoint a suitable person near the place where the company usually meets for training, in whose custody such arms shall be put; to be cleaned and kept in repair, for the use of such militiamen as the officers of the company shall deem unable to procure their own arms agreeably to this act; and the said arms shall not be taken from their places of deposit, except on the days appointed by this act for the exercise and discipline of the militia, or when they shall be called into actual service; and the person so appointed, shall receive such compensation for his services as a majority of the field officers of the regiment shall deem just and reasonable, to be paid out of the regimental fund.

Section XL. (Section XL, P. L.) And be it further enacted by the authority aforesaid, That if any youth of the age of twelve years, and not exceeding the age of eighteen years, shall, with the consent and approbation of his parents, attach himself to any company of militia, for the purpose of learning to beat the drum, play on the fife, blow on the bugle horn or trumpet, provided the number shall not exceed one person for the drum, and one for the fife, or one for the bugle horn in each company, and one for the trumpet for each troop of horse; every such person or persons shall be put under the instructions of the drum and fife major, the bugler or trumpeter, as the case may be, whose duty it shall be to teach such person or persons, in the best manner in his power; and as soon as such person or persons shall be able to perform field duty to the satisfaction of the commanding officer of the regiment, he shall draw his warrant on the paymaster of the regiment, in favor of the drum or fife major, the bugler or trumpeter who may have taught such person or persons as aforesaid, for the sum of ten dollars for every person so taught; and the person so taught shall be furnished with a suit of regimentals, to be paid for out of the funds of the regiment; and the father of every youth who shall have been instructed as aforesaid, shall be exempted and excused from every kind of militia duty so long as his son shall continue to perform the duties of a drummer, fifer, bugler, or trumpeter in any militia company.

Section XLI. (Section XLI, P. L.) And be it further enacted by the authority aforesaid, That the fourth Monday in the month of April, and the fourth Monday in the month of September annually, be, and they are hereby appointed for the commissioned and staff officers of the respective regiments to meet together at the most convenient place, to be fixed by the field officers of each regiment, for the purpose of perfecting and improving themselves in the military art; and the officers aforesaid shall appear with proper arms and uniform, under the same penalty for each neglect as on days of training; and the commanding officer of each regiment shall within three days after the appeal

appointed by this act, direct his warrant for collecting the fines in this section mentioned, to the quartermaster of the regiment or other fit person, who shall within one month after the receipt of such warrant, collect and pay the amount of the said fines to the paymaster of the regiment, and shall receive for his services the same compensation as is allowed for collecting fines by the nineteenth section of this act; which fines shall be recovered in like manner, and the persons entitled to like appeal as those for nonattendance are entitled to by this act; and the fines accruing by virtue of this section shall be appropriated in such manner as a majority of the officers attending on such days of training may direct.

Section XLII. (Section XLII, P. L.) And be it further enacted by the authority aforesaid, That a majority of any light infantry, grenadier, rifle or artillery company, or of any troop of horse, shall have power, at their first meeting in each year, to fix upon, declare and settle what and how many days of training they will have throughout the year, over and above the days hereinbefore appointed for the training and mustering of the militia, for the purpose of improving themselves in military discipline; and it shall be lawful for each and every commanding officer of each and every such company to notify his respective company of such stated days of meeting, and to inflict and levy such fines and penalties on any member who shall refuse or neglect to attend such days of exercise as may be agreed upon by a majority of the company convened for that purpose, which fines shall be collected by a sergeant of each company, by virtue of a warrant under the hands and seals of the commissioned officers of the same, and shall be appropriated for the payment of the music and other contingent expenses of the company, and paid on warrants to be drawn by the commanding officer; and the accounts of each company shall be examined and settled once in every year by a committee of three persons, members thereof, to be chosen by ballot, at a meeting of the company convened for that purpose, which the com-

manding officer is hereby enjoined to do some time in the month of May annually.

Section XLIII. (Section XLIII, P. L.) And be it further enacted by the authority aforesaid, That the regiment of artillery now commanded by lieutenant-colonel John Connelly, formed prior to the passing of this act, within the bounds of the first division, composed of the militia of the city and county of Philadelphia, shall continue as heretofore; and it shall and may be lawful for the governor to cause each company of said regiment (not already supplied) to be furnished with one piece of brass or iron field ordnance, at the expense of the state; and the field and other officers of said regiment shall be elected in like manner as is directed by this act for the election of officers in the infantry; and the individuals composing said regiment shall be subject to the same fines and penalties, and be entitled to similar relief as the rest of the militia of this state is entitled to by this act; and the companies composing the said regiment shall be called into actual service in rotation, by companies and not by classes, according to the number in rank which each company bears in said regiment, commencing with the company whose turn it may next be to perform a tour of duty agreeably to former arrangements of said regiment: Provided, each company shall not be less than forty-four noncommissioned officers and privates.

Section XLIV. (Section XLIV, P. L.) And be it further enacted by the authority aforesaid, That if any officer, non-commissioned officer, or private militiaman, or volunteer acting with the militia, residing in this state, having a family, shall be slain in battle, or shall die of wounds received in the service of this state, his widow, child, or children, shall be entitled to similar relief, and under the same regulations and restrictions as were provided by the act, entitled "An act to provide for the more effectual relief of the widows and children of the officers and privates of the militia who have lost their lives in the service of their country," passed the twenty-seventh day of March, one thousand seven hundred

and ninety;⁽³⁾ and if any officer, noncommissioned officer, or private militiaman, or volunteer acting with the militia, residing in this state, shall be wounded or otherwise disabled in the service of this state, he shall be entitled to similar relief, and under the same regulations and restrictions, as have been provided by an act, entitled "An act for the relief of officers, soldiers and seamen, who in the course of the late war have been wounded or otherwise disabled in the service of this state or of the United States," passed the tenth day of March, one thousand seven hundred and eighty-seven,⁽⁴⁾ which last aforesaid act, so far as relates to the purpose of this act, is hereby revived and in full force.

Section XLV. (Section XLV, P. L.) And be it further enacted by the authority aforesaid, That the secretary of the commonwealth is hereby authorized to receive proposals for printing, and under the direction of the governor, shall cause to be printed and bound in leather, a sufficient number of copies of this act, together with the rules and regulations for the discipline of the troops of the United States by the baron Steuben, which laws the adjutant-general shall, on or before the second Monday in August next, cause to be distributed in the manner following, viz: To every general and field officer and brigade inspector, each one copy; to every captain for the use of his company, one copy; and to every adjutant one copy; and shall also, under the direction of the governor, cause to be printed and bound in leather, a sufficient number of the articles of war, and cause the same to be distributed in such manner that each general officer, field officer and brigade inspector, may have one copy; and the expense of printing, binding and distributing the same shall be allowed in the settlement of his accounts with the register-general; and it shall be the duty of any officer having such copy or copies, on his going out of office, on demand made, to deliver, or in case of death, his executors or administrators shall deliver, under the penalty of five dollars, to the successors in office of the person so going out of office or dying, the aforesaid copy or copies.

Section XLVI. (Section XLVI, P. L.) And be it further enacted by the authority aforesaid, That in any county within this commonwealth, where there is reason to presume, from the accounts which have been, or which shall be rendered by the brigade inspectors to the officers of accounts, or from other evidence, that the returns of militia fines incurred under the act, entitled "An act for the regulation of the militia of the commonwealth of Pennsylvania," passed the eleventh day of April, one thousand seven hundred and ninety-three,⁽⁵⁾ and the act, entitled "An act for the regulation of the militia of the commonwealth of Pennsylvania," passed the ninth day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ have not been fully and justly made, or that the said fines, or some part thereof hath been unjustly withheld by any of the said brigade inspectors or collectors, it shall be the duty of the comptroller-general and register-general, and they are hereby enjoined and required to nominate an agent skilled in accounts, to be approved of by the governor, whose duty it shall be to investigate and ascertain the accuracy of the said returns and accounts, made by such brigade inspector, and for this purpose the said agent shall have power to call upon those militia officers whose duty it was, under the recited acts, to make return of the delinquent militiamen, and also of all collectors of the fines of such delinquents, and to demand from them the said inspectors, collectors and officers severally, all the returns of delinquents, and other papers and documents relative to the said fines, in their possession respectively, or copies thereof; and every brigade inspector, collector or other person, who shall refuse to comply with such demand, shall forfeit and pay for every such offence, the sum of one hundred dollars; and the said agent shall have power to examine the said brigade inspectors, officers and collectors, on oath or affirmation, touching the same, and shall report his proceedings to the comptroller-general and register-general, once in every three months; and upon such report being made, they shall proceed to recover all such balances as shall be found remaining in the hands of the brigade inspectors, collectors and militiamen, as the laws

direct; and the said agent shall receive as a compensation for his services, such daily pay, while employed as aforesaid, as the comptroller-general and register-general shall deem just and reasonable, which shall be paid out of the funds for the support of government, by warrant drawn for that purpose in the usual manner.

Section XLVII. (Section XLVII, P. L.) And be it further enacted by the authority aforesaid, That this act shall not have effect until the first day of August next, and that the act, entitled "An act for the regulation of the militia of the commonwealth of Pennsylvania," passed the ninth day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ shall from and after the said first day of August next be, and the same is accordingly hereby repealed, and made null and void. Provided always, that nothing herein contained, shall be construed so as to revive any former law or laws which in and by the said recited act, is or are repealed and made void, or to prevent the recovery of any fines or forfeiture incurred under the same.

Approved April 6, 1802. Recorded L. B. No. 8, p. 123.

Note (1). Chapter 2068; 16 Statutes at Large, p. 276.

Note (2). Chapter 1940; 15 Statutes at Large, p. 524.

Note (3). Chapter 1693; 13 Statutes at Large, p. 464.

Note (4). Chapter 1271; 12 Statutes at Large, p. 380.

Note (5). Chapter 1695; 14 Statutes at Large, p. 454.

Note (6). Chapter 365; 5 Statutes at Large, p. 22.

CHAPTER MMCCCIII.

AN ACT TO AUTHORIZE THE GOVERNOR TO SUBSCRIBE FOR A CERTAIN NUMBER OF COPIES OF THE LAWS OF THIS COMMONWEALTH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the governor of this commonwealth be, and he is hereby required to subscribe for one thousand copies of the laws of this commonwealth, as proposed to be printed by Mathew Carey and John Bioren; to

be neatly and correctly printed, in six volumes, octavo, with a complete index, with notes and references, well bound and lettered, at ten dollars for each set; provided that no money shall be paid on the above subscription, until the work is completed, examined and approved by the legislature, and deposited in the office of the secretary of this commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the governor is hereby directed to require good and sufficient security from the said Mathew Carey and John Bioren, for the faithful performance of their engagements.

Approved April 6, 1802. Recorded L. B. No. 8, p. 181.

CHAPTER MMCCCIV.

AN ACT AUTHORIZING THE SALE OF PROVISIONS, VEGETABLES AND FRUIT, IN THE MARKETS OF ANY CITY, BOROUGH OR CORPORATE TOWN WITHIN THIS COMMONWEALTH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall and may be lawful for any person or persons, to sell or expose to sale, provisions, vegetables or fruit, in the markets of any city, borough, or corporate town within this commonwealth. Provided always, that such provisions, vegetables or fruit, shall not have been previously purchased within the limits of such city, borough, or corporate town, any law to the contrary notwithstanding.

Approved April 6, 1802. Recorded L. B. No. 8, p. 181.

CHAPTER MMCCCV.

AN ACT TO ENABLE PURCHASERS AT SHERIFF'S OR CORONER'S SALES
TO OBTAIN POSSESSION.

Whereas, great inconveniences have been experienced from the unjust detention of lands and tenements sold by sheriffs under executions from the several courts of this commonwealth, the purchasers whereof have been obliged to bring ejectments, and to subject themselves to all the delays and expenses incident to law proceedings, to recover the possession from the person as whose property the same was originally sold, the desperate circumstances of whom usually preclude the possibility of obtaining damages or any other compensation whatever, for such unjust detention: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That where any lands or tenements shall hereafter be sold by the sheriff or coroner of any county, by virtue of any execution issued out of any court of record of this commonwealth, it shall be lawful for the purchaser or purchasers thereof, to give notice to the defendant or defendants, as whose property the same has been or may be sold, or to the person or persons being in possession of the same lands and tenements, under him or them, that the same premises have been sold, and to require him or them to surrender up the possession to the purchaser or purchasers thereof, within three months after the date of such notice; and if the defendant or defendants, or person or persons in possession under him or them, shall neglect or refuse to comply therewith in three months after such notice shall so as aforesaid have been given, it shall and may be lawful to and for such purchaser or purchasers, his or their heirs, or assigns, to complain thereof to any two justices of

the city, town or county where the premises are situate, and upon due proof made before the said justices, that the said complainant or complainants had purchased the said lands or tenements at sheriff's or coroner's sale (of which the deed poll executed by the said sheriff or coroner, if duly acknowledged in the proper court, and certified under the seal of the same court, shall be conclusive evidence) and that the person or persons then in possession, is or are the defendant or defendants as whose property the same lands or tenements were sold, or came into possession thereof under him or them, and that the same person or persons so in possession, had notice of such sale three months previous to such complaint and application; then and in such case, it shall and may be lawful for the said justices to whom complaint shall be made as aforesaid, and they are hereby enjoined and required forthwith to issue their warrant, in nature of a summons, directed to the sheriff of the county, thereby commanding the said sheriff to summon a jury of twelve good and lawful men of his bailiwick, to appear before the said justices within four days next after issuing thereof; and also to summon the said defendant or defendants, as whose property the same premises were sold, or the person or persons in possession under him or them, at the same time to appear before them the said justices and the jury aforesaid, to show cause, if any he or they has or have, why delivery of the possession of the same lands and tenements should not be forthwith made to such purchaser or purchasers, his or their heirs or assigns; and if upon hearing the parties, or in case of the nonappearance of the said defendant or defendants, as whose property the same premises had been sold, or other person or persons claiming or coming into possession under him or them, after being duly summoned as aforesaid, it shall appear to the said justices and jury, that the complainant or complainants, or the person or persons under whom they claim, was or were the purchaser or purchasers, at sheriff's or coroner's sale, of the lands and tenements in question, of which the sheriff's or coroner's deed poll, duly acknowledged and certified under the seal of the proper court, shall, as

aforesaid, be full and conclusive evidence, and that the person or persons in possession of the premises, was or were the defendant or defendants named in the execution under which the same premises were sold, or came into possession under such defendant or defendants, and that such defendant or defendants, or the person or persons in possession of the premises under him or them, had notice of such sale three months before such application to the said justices; then and in every such case, it shall and may be lawful for the said two justices to make a record of such finding by them the said justices and jury aforesaid; and the said jury shall assess such damages as they think right against the said defendant or defendants, as whose property the same premises were sold, or other person or persons in possession under him or them for the unjust detention of the premises; for which damages and reasonable costs judgment shall be entered by the said justices, which judgment shall be final and conclusive to the parties, and upon which the said justices shall, and they are hereby enjoined and required to issue their warrant, under their hands and seals, directed to the sheriff of the county, commanding him forthwith to deliver to the said complainant or complainants, his or their heirs or assigns, full possession of the said lands and tenements, and to levy the costs taxed by the justices, and damages so by the jury aforesaid assessed of the said defendant or defendants, or other person in possession as aforesaid; and no certiorari which may be issued to remove such proceedings, shall be a supersedeas, or have any effect to prevent or delay the execution aforesaid, or the delivery of the possession, agreeably thereto.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That if the person in possession of the premises shall make oath or affirmation before the said justices, that he hath not come into possession, and doth not claim to hold the same by, from, or under the defendant or defendants named in the execution by virtue whereof the same lands or tenements were sold; and that the title to the lands and tenements in question, is disputed and claimed by some

person or persons (other than the defendant or defendants named in the execution under which the same were sold) whom he shall name; and if thereupon the person or persons so claiming, shall forthwith, or upon a summons immediately to be issued by the said justices, returnable within a reasonable time, not exceeding thirty days next following, appear before them; and on oath or affirmation, to be by the said justices administered, declare that he verily believes that he is legally entitled to the premises in dispute, and that he doth not claim the same by, from, or under the defendant or defendants as whose property the same were sold, but by a different title; and shall become bound, with one or more sufficient sureties, by recognizance, to the complainant or complainants, before the said justices, in a sum fully sufficient to cover and secure as well the value of the rents or mesne profits of the said lands or tenements, which may have accrued and which may be expected to accrue before the final decision of the said claim, as all costs and damages, conditioned to prosecute his claim with effect, at the next court of common pleas to be held for the county where the said lands and tenements shall be; and in case of failure to prosecute as aforesaid, to surrender up the said premises, and to pay to the said complainant or complainants the full value of the rents and mesne profits of the premises accrued from the time of the purchase; then and in such case, but not otherwise, the said justices shall forbear to give the said judgment. Provided always nevertheless, that if the said claim shall not be prosecuted according to the intent and meaning of the said recognizance, it shall be forfeited to the use of the said complainant or complainants, and the justices aforesaid shall proceed to give judgment, and cause the lands and tenements aforesaid to be delivered up to the said complainant or complainants, in the manner hereinbefore enjoined and directed.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That where any lands or tenements shall hereafter be sold by any sheriff or coroner as aforesaid, which shall be at the time of such sale, or at

any time afterwards, held or possessed by any tenant or lessee, or person holding or claiming to hold the same under the defendant or defendants named in the execution by virtue whereof the same lands or tenements shall be sold by such sheriff or coroner, the purchaser or purchasers of the same lands or tenements shall (after receiving the sheriff's or coroner's deed for the same) be considered as the landlord or landlords to such tenant or lessee, or person claiming to hold the same under the aforesaid defendant or defendants; and shall have the like remedies, by distress or otherwise, to recover any rents due subsequent to such sale, as the same defendant or defendants as whose property the same lands or tenements shall be so sold, might or could have, if no such sale should take place; and if after notice of such sale, the said tenant or lessee, or other person occupying the premises as aforesaid, shall pay any rent to the said defendant or defendants as whose property the same premises may have been or shall be sold as aforesaid, the said tenant or lessee, or other occupier as aforesaid, shall be liable to repay the same to the purchaser or purchasers aforesaid.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, every tenant or other person, who now is or hereafter shall be in possession of any lands or tenements which heretofore have been sold by or at a sheriff's or coroner's sale, shall within three months after demand for that purpose, made by recognizance duly acknowledged, give to the purchaser or purchasers thereof at such sale, their assigns or legal representatives, being in possession of the sheriff's or coroner's deed, duly acknowledged, sufficient sureties, to be approved of by at least one of the associate judges of the proper county, for all the mesne profits or rents that shall or may probably accrue from the time of such demand until the final decision of any ejectment now pending, or which shall hereafter be sued out or brought for recovering, under and by virtue of such deed, the possession of any lands or tenements so as aforesaid sold; but if any such tenant or other person so as aforesaid in possession, shall for three

months after demand so as aforesaid made, neglect or refuse to give sureties in manner aforesaid, then and in every such case, it shall and may be lawful for such purchaser or purchasers, to proceed by distress or otherwise, for the recovery of such mesne profits or rents, in the same manner in which landlords now may lawfully proceed for the recovery of any rents due. Provided always, that nothing in this section contained, shall be so construed as to impair any contract heretofore made between any landlord or tenant.

Approved April 6, 1802. Recorded L. B. No. 8, p. 183.

CHAPTER MMCCCVI.

AN ACT TO PROVIDE FOR THE PAYMENT OF CERTAIN EXPENSES OF THE EXECUTIVE DEPARTMENT, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That for the payment of the following debts and expenses of government, there be and is appropriated, out of the funds for the support of government, the sum of forty-two thousand four hundred forty-three dollars and ninety-two cents; that is to say: For printing, stationary, attendants, expresses, fuel and other contingent expences of the executive department for one year from the first day of April, the present month, including all balances which former appropriations are not sufficient to discharge, the sum of one thousand and twenty dollars and forty-two cents; for the payment of clerk hire in the office of the secretary of the commonwealth, the sum of one thousand eight hundred dollars; for continuing the salary of the deputy-secretary three hundred dollars; for the payment of certain certificates issued under the authority of the act, entitled "An Act to provide for the settlement of the public accounts, and for other purposes therein mentioned;" passed the fourth

day of April, one thousand seven hundred and ninety-two,⁽¹⁾ the sum of thirty-five thousand five hundred and sixty dollars; for the payment of clerks in the office of comptroller general, in settling the accounts of the former and late comptroller-general and state treasurer, the sum of eight hundred dollars; and for the office of surveyor-general, to arrange and bring forward the business of that office, three hundred dollars, for which he shall account; for the purpose of clerk hire in the office of the secretary of the land-office, to select, arrange, endorse and file all the proprietary locations, and for other purposes, the sum of four hundred dollars; for the payment of a balance due to Solomen Meyer, for printing the German journals of the last session, the sum of one hundred and twenty-five dollars and fifty cents; for the payment of balance due to William and Robert Dickson, for printing bills for the last house of representatives, one hundred fifty dollars; for the payment of a balance due to Francis Bailey, for printing the English journals of the last house of representatives, the sum of three hundred thirty dollars; for the payment of a balance due to George Bryan, for drafting bills for a former house of representatives, the sum of twenty-four dollars; for the payment of a balance due to Charles Culnan, for taking care of the state house and yard thereunto adjoining, the sum of eight dollars; for a balance due to Benjamin H. Latrobe, for improving the navigation of the river Susquehanna, and for some further improvements of the navigation of said river, the sum of two thousand one hundred twenty-six dollars.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the governor shall lay before the next general assembly, a particular account of the expenses of the executive department.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That all warrants to be drawn on the treasury by the governor, for the sums of money appropriated by this act, shall be under the same regulations and restrictions as are directed by law in other cases.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the comptroller-general and register-general shall, on the first Monday in January next, lay before the legislature a statement of the progress made in the settlement of the accounts of the present and former county treasurers for the arrears of state taxes, under the act passed at the present session of the legislature, entitled "An act to facilitate the settlement of the accounts of the former and present county treasurers for arrears of state taxes."⁽²⁾

Approved April 6, 1802. Recorded in L. B. No. 8, p. 230.

Note (1). Chapter 1627; 14 Statutes at Large, p. 243.

Note (2). Chapter 2234; (Feb. 5, 1802), Supra this volume, p. 612.

ACTS
OF THE
GENERAL ASSEMBLY OF PENNSYLVANIA.

Passed at a Session which was begun and holden at Lancaster on Tuesday, December 7th, 1802, and from thence continued until Monday, April 4th, 1803. (Inclusive.)

CHAPTER MMCCCVII.

AN ACT TO REANNEX PART OF FRANKLIN TOWNSHIP, IN THE COUNTY OF WESTMORELAND, TO THE FIFTH ELECTION DISTRICT IN SAID COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all that part of Franklin township, in the county of Westmoreland, that lies north of the New Frankstown road, be and it is hereby reannexed to the fifth election district in said county; and the electors thereof shall hold their general elections at the court house

in the borough of Greensburg, anything in any former law or laws to the contrary notwithstanding.

Approved January 11, 1803. Recorded L. B. No. 8, p. 202.

CHAPTER MMCCCVIII.

AN ACT ALTERING THE PLACE OF HOLDING THE GENERAL ELECTION IN THE DISTRICT COMPOSED OF PLUMB AND PART OF VERSAILLES TOWNSHIP, IN ALLEGHENY COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors of the district composed of Plumb township, and that part of Versailles township that lies north of the state road in Allegheny county, shall hold their general elections at the house now occupied by John Little, on the Frankstown state road in Plumb township, any former law or laws to the contrary notwithstanding.

Approved January 11, 1803. Recorded L. B. No. 8, p. 202.

CHAPTER MMCCCIX.

AN ACT ALTERING THE PLACE FOR HOLDING ELECTIONS IN THE DISTRICT COMMONLY CALLED SILVER SPRING DISTRICT IN CUMBERLAND COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the electors of those parts of East Pennsborough and Allen townships, in Cumberland county, which compose an election district, shall from and after the passing of this act hold their elections at the dwelling house now occupied by Nicholas Kritzer, in the township

of East Pennsborough aforesaid, any law to the contrary notwithstanding.

Approved January 13, 1803. Recorded L. B. No. 8, p. 202.

CHAPTER MMCCCX.

AN ACT TO ERECT PART OF BEAVER COUNTY INTO SEPARATE ELECTION DISTRICTS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That so much of the county of Beaver, in the boundaries as follow, viz: Beginning at the west boundaries of Pennsylvania, where Little Beaver creek crosses the line; thence eastwardly up said creek about six miles to the Big Lick at William Anderson's; thence east about five miles to the west side of Big Beaver creek; thence up said creek to the mouth of Shenango; thence up the west side of said creek to the north boundary of the county; thence west by the county line to the west boundary of the state of Pennsylvania; thence south by the west state line to the place of beginning; shall be a separate election district; and the electors thereof shall hold their general elections at the dwelling house now occupied by Robert Johnston on Beaver run in said district.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the following boundaries be a separate election district; beginning at the house of Henry Lawrence, on Big Beaver creek; thence up said creek to the forks thereof; thence up the Shenango branch thereof to the place where the north boundary line of Beaver county crosses said creek; thence east on said line to the northeast corner of said county; thence south on the eastern boundary line of the same to where the said line crosses Conochquenesing creek; thence down said creek to the mouth of Brusk creek; thence westwardly to the place of beginning; shall be a sep-

arate election district; and the electors thereof shall hold their general elections at the dwelling house now occupied by Ananias Allen in said district.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, that part of Beaver county within the following bounds shall be annexed to the Beavertown election district, and hold their general elections at the house now occupied by Samuel Johnston in Beavertown; that is, beginning on the Ohio river at the mouth of Raccoon creek; thence up said creek to Michael Baker's included; thence a direct line to Jacob Myer's included, on the Ohio river; thence down said river to the place of beginning.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That, that part of Beaver county, comprehended within the following bounds, be annexed to the Georgetown election district, and hold their general elections at the house formerly occupied by Samuel Lyons, in Georgteown; that is, beginning at the south branch of Tumblestone's run, where it crosses the western boundary line of this state; thence south on said state line until it strikes Washington county line; thence east on the said line between Washington and Beaver counties, to White's mill, on Raccoon creek; thence along the big road westwardly to Anderson's; thence a direct line, to the place of beginning, any law or laws to the contrary notwithstanding.

Approved January 13, 1803. Recorded L. B. No. 8, p. 203.

CHAPTER MMCCCXI.

AN ACT TO ERECT MILFORD TOWNSHIP, IN THE COUNTY OF SOMERSET, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing

of this act, the township of Milford, in Somerset county, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by John Gephart in Milford township aforesaid, any law to the contrary notwithstanding.

Approved January 17, 1803. Recorded L. B. No. 8, p. 204.

CHAPTER MMCCCXII.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO ERECT THE TOWN OF LEBANON, IN THE COUNTY OF DAUPHIN, INTO A BOROUGH." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, similar rights, privileges and immunities, as are now exercised, holden and enjoyed by the burgesses, freeholders and inhabitants of the borough of Reading, in and by the ninth section of the act⁽²⁾ establishing the said borough, shall and may from henceforth be exercised, holden and enjoyed by the burgesses, freeholders and inhabitants of the borough of Lebanon, in the county of Dauphin, and the yearly fairs in the said borough of Lebanon shall commence on the fourth Thursday in the month of May, and on the fourth Monday in the month of October, in each and every year.

Approved January 17, 1803. Recorded L. B. No. 8, p. 204.

Note (1). Chapter 2045; 16 Statutes at Large, p. 230.

Note (2). Chapter 1031; 11 Statutes at Large, p. 124.

CHAPTER MMCCCXIII.

AN ACT FURTHER TO PROLONG THE TIME FOR ERECTING A PERMANENT BRIDGE OVER THE RIVER SCHUYLKILL, AT PHILADELPHIA.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by

the authority of the same, That a further time of five years, from and after the time heretofore allowed by law, be and the same is hereby granted and allowed to the president, directors and company for erecting a permanent bridge over the river Schuylkill, at or near the city of Philadelphia, incorporated on the twenty-seventh day of February, one thousand seven hundred and ninety-eight, by the name and style of "The President, Directors and Company, for erecting a permanent bridge over the river Schuylkill, at or near the city of Philadelphia," to complete the erection of the said bridge: And if the said company do not complete the same within the term heretofore allowed by law, and the additional term herein granted, it shall and may be lawful for the legislature of this commonwealth, to resume all and singular the rights, liberties and privileges granted to the said company, by virtue of an act, entitled "An act to authorize the governor of this commonwealth, to incorporate a company for erecting a permanent bridge over the river Schuylkill, at or near the city of Philadelphia."⁽¹⁾

Approved January 22, 1803. Recorded L. B. No. 8, p. 208.
Note (1). Chapter 1974; 16 Statutes at Large p. 36.

CHAPTER MMCCCXIV.

AN ACT TO ERECT PART OF GREENFIELD TOWNSHIP, IN THE COUNTY OF ERIE, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the following part of Greenfield township, in the county of Erie, shall be a separate election district, viz: Beginning on the verge of Lake Erie, where the western boundary line of the state of New York intersects the same; thence south seven miles more or less to an ash tree, the southeast corner of a tract of land surveyed for Robert Smith; thence west to the eastern boundary of Erie township; thence north by the said township to the verge of lake Erie; thence by the

same to the place of beginning; and the electors thereof shall hold their general elections at the house now occupied by Andrew Lowry in said district.

Approved January 22, 1803. Recorded L. B. No. 8, p. 207.

CHAPTER MMCCCXV.

AN ACT ALTERING THE PLACE OF HOLDING THE GENERAL ELECTIONS IN NOBLESBURG DISTRICT, IN THE COUNTY OF ALLEGHENY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors of Noblesburg district, in the county of Allegheny, shall hold their general elections at the dwelling house now occupied by George Williams, in the town of Noblesburg aforesaid, any law to the contrary notwithstanding.

Approved January 22, 1803. Recorded L. B. No. 8, p. 205.

CHAPTER MMCCCXVI.

AN ACT TO AUTHORIZE ABRAHAM LANDIS, TO ERECT A MILLDAM IN SWATARA CREEK, IN THE COUNTY OF DAUPHIN.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall and may be lawful for Abraham Landis, his heirs and assigns, and they and each and every of them are hereby authorised and empowered, to erect, support, and for ever maintain, a milldam across Swatara creek, on his or their own land, with the consent and approbation of the owner of the lands on the opposite side of the creek adjoining

to the said dam, of such convenient height as he or they may think necessary: Provided, the same shall not injure the crossing of the said creek at the place called Pineford, on the road leading from Middletown to Elizabethtown and Lancaster: And provided also, that he or they shall erect and keep in repair a good and sufficient lock for the convenient passage of boats, and such slope as may render the said dam no obstruction to the passage of fish; and also that the rights of all and every individual be preserved without injury by any of the privileges granted by this act.

Approved January 22, 1803. Recorded in L. B. No. 8, p. 206.

CHAPTER MMCCCXVII.

AN ACT AUTHORISING HUGH BEATY, ACTING ADMINISTRATOR OF JAMES BEATY, TO CONVEY CERTAIN LOTS ADJOINING NEW BERLIN, IN NORTHUMBERLAND COUNTY.

Whereas Hugh Beaty, acting administrator of James Beaty, late of Northumberland county, deceased, by his petition to the general assembly of this commonwealth, hath set forth that the said James Beaty, in his life-time and Alexander Beaty, some time in the year one thousand seven hundred and ninety-two, did lay out and sell certain lots, adjoining the town of New Berlin, in the township of Buffalo, in the county aforesaid, that the said James and Alexander, at the time of selling the said lots were tenants in common thereof, and the greater part of the purchase-money hath been paid for the lots, so as aforesaid sold, but that no deeds or titles, therefor were executed in the life-time of the said James, that although the purchasers of the said lots, are anxious to have titles for the same, yet no one hath due authority to execute deeds therefor, on the part of the said James, or his heirs, who are minors, because there is not any contract in writing or other written evidence of contract whereby the said deceased, hath covenanted, agreed or bound himself or his heirs to convey the said lots, and that the said petitioner did therefore

pray that he or some one else on the part and behalf of the heirs of the said James Beaty, deceased, might be authorised by law, to convey in fee simple the lots, so as aforesaid sold: And whereas, the foregoing representation of facts by the said petitioner appears to be true, and it is just and reasonable that the prayer of his petition should be granted: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Hugh Beaty, acting administrator of James Beaty, late of Northumberland county, deceased, be and he is hereby authorised on the part and behalf of the heirs of the said decedent to convey in fee simple, to the purchasers or their legal representatives respectively, all or any of the said lots, so as aforesaid sold but not conveyed by the said James Beaty, in his life time, saving and excepting always nevertheless to all persons other than the heirs of the said decedent, their just rights and claims, to all or any of the aforesaid lots, which shall or may be conveyed in pursuance of this act.

Approved January 22, 1803. Recorded in L. B. No. 8, p. 206.

CHAPTER MMCCCXVIII.

AN ACT TO GRANT JAMES MOORE, A FRACTIONAL PART OF THE RESERVED TRACT OF LAND, AT THE MOUTH OF BIG BEAVER CREEK.

Whereas it appears by the petition of James Moore, and sundry vouchers that the said James Moore, hath made an actual settlement at an early period, on a fractional part of the reserved tract of land, at the mouth of Big Beaver creek: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That so much of the fractional part

of the reserved tract of land, at the mouth of Big Beaver creek, in Beaver county, as lies along the northern boundaries and eastern lines of said reserve, on the east side of the said creek, and adjoining the same as shall not exceed two hundred and twenty acres, be and is hereby granted to James Moore, at the price of one dollar and fifty cents, per acre, to be paid into the receiver-general's office of this commonwealth, in four equal yearly instalments; the first to be paid within one year after the passing of this act, and on receipt of the said first instalment, a warrant of survey shall be granted, and on receipt of the last payment above mentioned, it shall be lawful for the officers of the land-office and they are hereby directed to issue a patent to said James Moore, or to his legal representatives in usual form, he or they paying the fees of office.

Approved January 22. Recorded in L. B. No. 8, p. 206.

CHAPTER MMCCCXIX.

AN ACT TO DISSOLVE THE MARRIAGE CONTRACT BETWEEN ALEXANDER DICK AND CATHARINE HIS WIFE, LATE CATHARINE WOLF.

Whereas Catharine Dick, of the borough of Lancaster, in the county of Lancaster, by her petition to the legislature, hath represented that about the month of April 1801, she was lawfully married to a certain Alexander Dick, who without the knowledge or privity of your petitioner and before her marriage with him, had been guilty of larceny, whereof he has been convicted at a court of oyer and terminer, and general jail delivery, held at Lancaster, for the county of Lancaster, on the second Monday of May, in the year of our Lord, 1801: And that the court, before whom the said Alexander, was convicted hath adjudged that he should pay a fine of three thousand four hundred and seventy-six dollars and sixty-seven cents, and undergo a servitude for eighteen calendar months, in the jail of Lancaster county, to be there-

in kept at hard labor or in solitude and in all things treated and dealt with as is prescribed by the acts of assembly of this state, in such case made and provided; pay the costs of prosecution, and stand committed till the whole of the sentence be complied with: That by the order and direction of the said court, the said Alexander Dick, hath been removed to the jail and penitentiary house, of the city and county of Philadelphia, where he now remains and will probably remain for life, as there is little chance of his ever being able to comply with the sentence or judgment of the court: That even if he should be released from his present confinement after what has passed, it would be in vain for her, the said Catharine, to expect any thing but misery in the extreme, by being obliged again to live with and be subject to a person so infamous and depraved, and that without the interference of the legislature, she cannot be relieved from the grievance under which she now suffers: And whereas, the foregoing statement of facts, hath been satisfactorily proved to the legislature, as well by a copy of the record of the court aforesaid, under the seal of said court, as otherwise, and it is but just and reasonable that an innocent and injured person should be released from the ties of matrimony, with a person so abandoned and depraved: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the marriage of the said Alexander Dick and Catharine his wife, late Catharine Wolf, be and the same hereby is declared to be annulled and void to all intents and purposes, whatsoever, and they are hereby respectively declared to be separate, set free and totally discharged from the matrimonial contract, and from all duties and obligations, arising therefrom, as fully, effectually and absolutely, as if they had never been joined in matrimony, any law, custom or usage to the contrary, notwithstanding.

CHAPTER MMCCCXX.

A SUPPLEMENT TO THE SEVERAL ACTS OF ASSEMBLY OF THIS COMMONWEALTH, RELATING TO THE ACKNOWLEDGMENT OR PROOFS OF DEEDS AND OTHER WRITINGS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That each of the aldermen of the city of Philadelphia, shall have power to take and receive the acknowledgment or proof of all deeds, conveyances, mortgages or other instruments of writing, touching or concerning any lands, tenements or hereditaments, situate, lying and being within the city of Philadelphia. And also, power to take and receive the separate examination of any feme covert, touching or concerning her right of dower, or the conveyance of her estate, or right in or to any such lands, tenements or hereditaments, agreeably to the act of assembly, entitled "An act for the better confirmation of the estates of persons holding or claiming under feme coverts, and for establishing a mode by which husband and wife may hereafter convey their estates," passed on the twenty-fourth day of February, anno domini one thousand seven hundred and seventy;⁽¹⁾ and that the fees to be received by the said aldermen, shall be the same, which are now allowed by law to the justices of the peace, for similar services.

Approved February 7, 1803. Recorded L. B. No. 8, p. 212.

Note (1). Chapter 605; 12 Statutes at Large, p. 329.

CHAPTER MMCCCXXI.

AN ACT TO ALTER THE PLACE OF HOLDING THE GENERAL ELECTIONS IN BUFFALO TOWNSHIP, ARMSTRONG COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by

the authority of the same, That the electors residing within the district composed of Buffalo township, in the county of Armstrong, shall hold their general elections at the house now occupied by John M'Dowell in the said township, any law or laws to the contrary notwithstanding.

Approved February 7, 1803. Recorded L. B. No. 8, p. 208.

CHAPTER MMCCCXXII.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR OPENING THE NAVIGATION OF CONECHOEAGUE CREEK, FROM THE MOUTH OF THE FALLING SPRING, IN THE TOWN OF CHAMBERSBURG, TO THE MARYLAND LINE.

Whereas the navigation of the said creek, from the mouth of the Falling Spring, in the town of Chambersburg, would greatly facilitate the conveyance of all kinds of produce to market, down the Potomac, and the same is obstructed by the number of mill dams erected on said creek, previously to its being delared a highway: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That John Calhoun, Benjamin Chambers, Dr. Robert Johnston, John Brown, Jacob Zanck, George Clark, David Kennedy, Col. William Alexander, James M'Calmont, Jacob Cassel, esquire, James Ramsey, Archibald Irvin, William M. Brown, Samuel Colhoon, Josiah Crawford and Archibald Baird, esquires, be, and they are hereby appointed commissioners, to do and perform the several duties hereinafter mentioned; that is to say, they shall on or before the first Monday in September next procure two books and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president, managers and company of the Conecocheague navigation, the sum of twelve dollars for every share set opposite our names, in such proportions and at such times as shall be determined by the president and managers, in pursuance of an act of

the general assembly of this commonwealth, entitled "An act to enable the governor of this commonwealth to incorporate a company for opening the navigation of the Conechocheague creek, from the mouth of the Falling Spring, in the town of Chambersburg, to the Maryland line." Witness our hands the day of , and shall thereupon give notice, four times successively in the weekly newspaper, printed in Chambersburg, of the time and place, when and where the books shall be opened to receive subscriptions for stock of the said company, at which times and places, some two of the commissioners, shall attend for the space of one day, and receive subscriptions from all persons of full age, either in their own names or that of any other person by them authorized, and in case the said shares do not amount to the number of four hundred, the said commissioners may adjourn from time to time, until the said number of shares shall be subscribed for. Provided always that every person offering to subscribe in the said books, as aforesaid, shall previously pay to the attending commissioners two dollars, for every share to be subscribed, out of which shall be defrayed all incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when two hundred or more shares shall be subscribed for, the said commissioners respectively may, or when the whole of said shares are subscribed for, shall certify under their hands and seals, the names of the subscribers and number of shares subscribed for to the governor of this commonwealth, and thereupon it shall and may be lawful for the governor, by letters patent, under his hand and the seal of the state, to create and erect the subscribers, and if the said subscriptions be not full at that time, then also, those who shall afterwards subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The president, managers and company of the Conechocheague navigation," and by the said name the said subscribers shall have per-

petual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and increasing the same if it shall be necessary, and of purchasing, taking and holding to them and their successors and assigns, all such estate, real, personal and mixed, as shall be necessary in the prosecution of their work, and of suing and being sued, and doing all and every other matter and thing which a corporation or body politic, may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the five persons first named in such letters patent, shall as soon as possible give notice, three times successively in the weekly newspaper aforesaid, of the time and place of meeting, when and where the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes, by ballot, one president, six managers, one treasurer, and such other officers as they shall think necessary to conduct the business of said company, for one year and until such other officers are chosen, and shall or may make such by-laws, rules, orders and regulations not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for ordering of the affairs of said company. Provided always, that no person shall have more than five votes at any election, and that each person shall be entitled to one vote for every share by him held under the said number.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday in September in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing other such officers, for the ensuing year in manner aforesaid, and at such other times and places as they shall be summoned by the president and managers.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers shall deliver a certificate to each person for every share by him subscribed for and held, which shall be transferable at

pleasure, and the assignee thereof shall hold the same subject to the same terms, and with all the advantages of the original holder.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places as shall be agreed upon, for transacting business, at which meetings five members shall form a quorum, who in the absence of the president may choose a chairman, and shall keep regular minutes of all their transactions, and who shall have power and authority to do and perform all things which they shall judge necessary, to carry on the intended works.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder after twenty days notice, in the newspapers as aforesaid, of the time and place appointed for the payment of any portion or dividend of the said stock, shall neglect to pay such proportion for the space of thirty days after the time so appointed, such stockholder or his assignee shall in addition to the dividend so called for, pay after the rate of five per centum per month for every delay of such payment, and if such accumulated penalties shall become equal to the sum before paid in part and on account of such share, the same shall be forfeited to the said company.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, with the workmen and laborers in their employ, to enter upon the lands and tenements through which the said water passes, so as to put locks or shoots in the mill dams, and for the purpose of confining the water in the said creek, and furthering its navigation, giving notice thereof to the owners of the said lands, and doing as little injury as possible to private property, and making amends for any damages that may happen to be done.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the said company having perfected the said navigation, it shall and may be lawful

for them to appoint such and so many toll gatherers as they shall think proper, to collect and receive of and from all and every person or persons using the said navigation, the tolls and rates hereinafter mentioned, that is to say: for every barrel of flour at each lock or shoot the sum of two cents, and so in proportion for every other article, which toll gatherers shall have power to stop and detain every or any boat until the same shall be paid.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the president and managers shall keep fair and just accounts of the said corporation, and shall once in every year, submit the same to a general meeting of the stockholders, as well of all expenditures, as of the dividends of the profits and income thereof, and shall publish when and where such profit shall be paid.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the president and managers shall cause a printed list of the tolls, which may lawfully be demanded at each lock or shoot, to be fixed and kept up in some conspicuous place, near said locks or shoots, for the information of such persons as may use the said navigation.

Approved February 7, 1803. Recorded L. B. No. 8, p. 212.

CHAPTER MMCCCXXIII.

AN ACT ERECTING THAT PART OF PINE TOWNSHIP; IN ALLEGHENY COUNTY, NOT INCLUDED WITHIN THE SEVENTH ELECTION DISTRICT, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, all the township of Pine, in the county of Allegheny, except that part comprehended in the seventh district, shall be a separate election district; and the electors thereof

shall hold their general elections at the house now occupied by Baltzar Good, in said township, any former law to the contrary thereof notwithstanding.

Approved February 7th, 1803. Recorded in L. B. No. 8, p. 210.

CHAPTER MMCCCXXIV.

AN ACT TO RAISE BY WAY OF LOTTERY, A SUM OF MONEY TO DEFRAY THE EXPENSE OF REBUILDING A CHURCH IN THE BOROUGH OF YORK.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Godfrey Lenhart, Andrew Robinson, John Ernst, Peter Small, Daniel Spangler, John Rothrock, George Barnitz and Christopher Lowman, be and they are hereby appointed commissioners, to raise by way of lottery, a sum of money not exceeding twenty-four hundred dollars, with a discount of twenty per centum to be by them applied to the payment of a debt, incurred by the German Presbyterian congregation, of the borough and county of York, in rebuilding their house of worship, which was lately destroyed by accidental fire.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the commissioners before they proceed to sell any tickets in the said lottery, shall lay such scheme thereof, before the governor as shall meet his approbation, and enter into bonds to him for the due performance of their duty, in drawing the same, and each of them before entering on the duties of his appointment, shall take and subscribe an oath or affirmation, diligently and faithfully to perform the duties hereby entrusted to him, and three or more of the said commissioners, shall attend at the drawing of each day, and when the drawing shall be completed, they shall cause an accurate list of the fortunate numbers, to be published at least three times in the English and German newspapers, printed in the borough of York, and

shall pay and discharge all the prizes, that shall be demanded by persons legally entitled thereto, within three months after the drawing shall be finished.

Section III. Section III, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months after the publication as aforesaid, shall be considered and deemed as relinquished, for the benefit of said church.

Approved February 7, 1803. Recorded in L. B. No. 8, p. 210.

CHAPTER MMCCCXXV.

AN ACT TO AUTHORIZE CHARLES SMITH, OF THE BOROUGH OF LANCASTER, HIS HEIRS AND ASSIGNS, TO ERECT AND MAINTAIN A WING DAM IN THE RIVER JUNIATA, UNDER CERTAIN RESTRICTIONS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Charles Smith, of the borough of Lancaster, his heirs and assigns, to erect a wing-dam in the Frankstown branch of the river Juniata, to extend from the southwesterly shore of a large island in the said river, immediately above the borough of Huntingdon, three-fourth parts over the said branch, and to maintain and keep up the same from the first day of June until the first day of September, in each and every year for ever, for the purpose of supplying an additional quantity of water to the mills adjoining the said borough of Huntingdon, during the seasons of drought and low-water: Provided always, that the said dam shall not impede the navigation of the said branch, or obstruct the passage of fish in the same: And provided also, that the said Charles Smith, his heirs or assigns, shall not thereby interfere with any private property on the said river, or with the mill and water-works of a certain Jonathan Roland: And provided also, that the said dam shall be so constructed as to be carried off by

the rising of the water, or by ice, or be otherwise removed immediately after the first day of December in every year.

Approved February 7, 1803. Recorded L. B. No. 8, p. 209.

CHAPTER MMCCCXXVI.

A SUPPLEMENT TO THE ACT ENTITLED "AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY TO MAKE AN ARTIFICIAL ROAD FROM THE CITY OF PHILADELPHIA, THROUGH GERMANTOWN, TO THE TEN MILE STONE ON CHESTNUT HILL, AND FROM THENCE TO THE NEW STONE BRIDGE OVER PERKIOMEN CREEK, IN THE COUNTY OF MONTGOMERY." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That as soon as the president, managers and company of the Germantown and Perkiomen turnpike road, shall have completed any five miles of the said road, or such fractional part as may remain between the upper end of the last five miles to be completed, and the new stone bridge over Perkiomen creek, they shall give notice thereof to the governor of this commonwealth, who shall thereupon forthwith nominate and appoint three disinterested and skillful persons to view and examine the same, and report to him in writing whether the same is so far executed in a masterly and workmanlike manner, according to the true intent and meaning of the act⁽¹⁾ to which this is a supplement; and if their report shall in any such case be in the affirmative, then the governor shall by license under his hand, and the lessèr seal of the commonwealth, permit and suffer the said president, managers and company, to erect and fix so many gates and turnpikes upon and across the said road, as will be necessary and sufficient to enable them to take and collect the tolls and duties in the said act mentioned, according to the rates therein specified and set forth.

Approved February 7, 1803. Recorded L. B. No. 8, p. 208.
Note (1). Chapter 2179; 16 Statutes at Large, p. 525.

CHAPTER MMCCCXXVII.

AN ACT TO ERECT A NEW ELECTION DISTRICT IN THE COUNTY OF CRAWFORD.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the township of Rockdale, in the county of Crawford, shall be an election district, and the electors thereof shall hold their general elections at the house now occupied by William Greenlee, in Rockdale township aforesaid.

Approved February 11, 1803. Recorded L. B. No. 3, p. 243.

CHAPTER MMCCCXXVIII.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD BY THE BEST AND NEAREST ROUTE, FROM THE BOROUGH OF EASTON, IN THE COUNTY OF NORTHAMPTON, TO THE TOWN OF WILKESBARRE, IN THE COUNTY OF LUZERNE.

Whereas the general assembly has been petitioned to pass an act, for the incorporation of a company to make a turnpike road, from Easton, in the county of Northampton, to Wilkesbarre, in the county of Luzerne, and it is reasonable and proper to give encouragement to such associations of individuals as are intended for the public benefit, by facilitating the communication between the different parts of the state.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Henry Drinker, Benjamin R. Morgan, and Thomas Allibone, of the city of Philadelphia; Samuel Sitgreaves, John Herster and Daniel Wagener, of the borough of Easton; and Lord Butler, Lawrence Myers and Thomas Wright, of the county of Luzerne, be and they are

hereby appointed commissioners to do and perform the several things hereinafter mentioned; that is to say, they shall on or before the first Monday of May next, procure three books, and in each of them enter as follows: "We whose names are hereto subscribed, do promise to pay to the president, managers and company, of the Easton and Wilkesbarre turnpike road, the sum of fifty dollars for every share of stock in the said company set opposite to our respective names, in such manner and proportions and at such times, as shall be determined by the president and managers of the said company, in pursuance of an act of the general assembly of this commonwealth, entitled "An act to enable the governor of this commonwealth, to incorporate a company for making an artificial road, by the best and nearest route from the borough of Easton, in the county of Northampton, to the town of Wilkesbarre, in the county of Luzerne," witness our hands the day of , in the year of our Lord one thousand eight hundred and three:" and shall thereupon give notice in two of the public papers printed in the city of Philadelphia, and in one or more of the public papers printed in the borough of Easton, and in the town of Wilkesbarre respectively, for one calendar month at least, of the times and places in the said city, borough and town respectively, when and where the said books shall be open to receive subscriptions for the stock of the said company, at which respective times and places, some two of the said commissioners shall attend; and shall permit and suffer all persons of lawful age, who shall offer to subscribe in the said books in their own names, or names of any other persons, who shall duly authorize the same, for any number of shares in the said stock, and the said books shall be kept open respectively, for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until the said book opened at Philadelphia shall have four hundred shares therein subscribed, the said book opened at Easton, two hundred shares therein subscribed, and the said book opened at Wilkesbarre, six hundred shares therein subscribed; and if at the expiration of the said six days the books afore-

said, or any of them, shall not have the respective number of shares as aforesaid therein subscribed, the said commissioners respectively may adjourn from time to time, and transfer the said books from place to place aforesaid, until the whole number of shares shall be subscribed, of which adjournments and transfer, the commissioners aforesaid shall give such public notice as the occasion may require; and when the whole number of shares subscribed in all the said books shall amount to twelve hundred, the same shall be closed. Provided always, that every person offering to subscribe in the said books in his own name, or any other name, shall previously pay to the attending commissioners, the sum of ten dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen as herein-after mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when sixty persons or more shall have subscribed six hundred or more shares of the said stock, the said commissioners respectively may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals the names of the subscribers and the number of shares subscribed by each, to the governor of this commonwealth, and thereupon it shall and may be lawful for the governor, by letters patent under his hand and the seal of the state, to create and erect the subscribers, and if the said subscriptions be not full at the time, then also those who shall afterwards subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of, "The president, managers and company, of the Easton and Wilkesbarre turnpike road," and by the said name, the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time,

by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfill the intent of this act, and of purchasing, taking and holding, to them and their successors, and assigns, and of selling, transferring and conveying in fee simple, or for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing, which a corporation or body politic, may lawfully do.

Section III, (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners aforesaid, as soon as conveniently may be after the said letters patent, shall be sealed and obtained, shall give notice in two of the public papers in Philadelphia, and in one or more of the public papers printed at Easton and Wilkesbarre respectively, of a time and place by them to be appointed not less than twenty days from the publication of the first notice, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes, of the said subscribers by ballot, to be delivered in person or by proxy, duly authorized, one president, twelve managers, one treasurer, and such other officers as they shall think necessary to conduct the business of the said company for one year, and until other such officers shall be chosen, and shall and may make such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for the well ordering the affairs of the said company. Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number. Provided nevertheless, that all future annual elections of the said corporation shall be held with such notice, and in manner and form aforesaid, alternately at Wilkesbarre and Easton.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday of January, in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing officers as aforesaid, for the ensuing year in manner aforesaid, and at such other times as they shall be summoned by the managers in such manner and form as shall be prescribed by their by-laws, at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes in manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first to be chosen as aforesaid, shall procure certificates, to be written or printed for all the shares of the stock of the said company, and shall deliver one such certificate signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed and held, he paying to the treasurer in part of the sum due thereupon, the sum of fifteen dollars, for each share, which certificate shall be transferable at his pleasure in person or by attorney, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon, and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for that purpose, shall be a member of the corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places and be convened in such manner as shall be agreed on for transacting their business, at which meeting seven members shall form a quorum, who in the absence of the president may choose a chairman, and shall keep minutes of all their transactions, fairly entered

in a book, and a quorum being met, they shall have full power and authority to agree with and appoint all such surveyors, superintendents, artists and officers, as they shall judge necessary to carry on the intended works, and to fix their salaries or wages, to ascertain the times, manner and proportions, when, and in which the stockholders shall pay the money due on their respective shares, in order to carry on the work, to draw orders on the treasurer for all moneys necessary to pay the salaries or wages of persons by them employed and for the labor done and materials provided in the prosecution of the work, which orders shall be entered or registered in their book of minutes, and shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by their secretary, and generally to do all such other acts, matters and things as by the by-laws, rules, orders, and regulations, of the company, shall be committed to them.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder, whether original subscriber or assignee, after thirty days notice in two of the public papers printed in the city of Philadelphia, and in one or more of the public papers printed in the borough of Easton, and town of Wilkesbarre respectively, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, shall neglect to pay such proportion at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month, for every delay of such payment, and if the same and the said additional penalty shall remain unpaid, for such space of time as that the accumulated penalty shall become equal to the sums before paid in part, and on account of such share, the same may be forfeited by and to the said company, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor; or in default of payment by any stockholder, of any such instalment as aforesaid, for the space of sixty days as aforesaid, the said president and managers may at their election, cause

suit to be brought in any court having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid. Provided always, that the recovery in any such suit shall in no case exceed the amount of such instalment or instalments, as may be due on such share, together with such accumulated penalty at the rate aforesaid, as shall equal the sums before paid on the same share. And provided also, that no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable as aforesaid, on the share or shares by him held at the time of such election, or general or special meeting of the said company, shall have been fully paid and discharged as aforesaid.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful, to and for the said president and managers, their superintendents, surveyors, engineers, artists and chain bearers, to enter into and upon, all and every the lands, tenements and inclosures, in, through, and over which, the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix such route or track for the same road, as in the best of their judgment and skill will combine shortness of distance, with the most practicable ground from the borough of Easton, to the town of Wilkesbarre aforesaid.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, by and with their superintendents, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, wains and other carriages, and beasts of draught or burden, to enter upon the lands, in, over, contiguous and near to which the route and track of said intended road shall pass, first giving notice of their intention to the owners or occupiers thereof,

and doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement if they can agree, or if they cannot agree, then upon an appraisement to be made upon oath or affirmation by three indifferent freeholders, any two of them agreeing, mutually to be chosen, or if the owners upon due notice shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of either of the counties of Northampton or Luzerne, not interested therein, and upon tender of the appraised value, to cut down, dig, take and carry away, any timber, stone, gravel, sand, earth or other material there being most conveniently situated for making or repairing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall have power to erect permanent bridges, over all the waters crossed by the said route or track, wherever the same shall be found necessary, and shall cause a road to be laid out not exceeding one hundred feet in width, from the town of Wilkesbarre aforesaid, to the Tunkhanna river, and not exceeding fifty feet in width, from thence to the borough of Easton aforesaid, unless in such places where the nature of the ground may render a greater width expedient, and then only with the consent of the owners of the contiguous land, and shall cause twenty feet thereof in breadth at least, to be made an artificial road, which shall be bedded with wood, stone, gravel or other proper and convenient material well compacted together, a sufficient depth to secure a solid foundation for the same, and the said artificial road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm and as nearly as the nature of the country and the materials will admit, an even surface rising towards the middle by a gradual arch, and shall forever hereafter maintain and keep the same in perfect order and repair.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That as soon as the said presi-

dent, managers and company shall have perfected the said road, from the town of Wilkesbarre aforesaid, to the Tunkhanna river, and so from time to time, any distance not less than ten miles progressively towards the borough of Easton aforesaid, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three skillful and judicious persons to view and examine the same, and report to him whether the road is so far executed in a competent and workmanlike manner, according to the true intent and meaning of this act, and if their report shall be in the affirmative, then the governor shall by license, under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers and company, to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons traveling in the same with horses, cattle and carriages.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said company, having perfected the said road, or such part thereof from time to time as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll gatherers as they shall think proper to collect and receive, of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding, leading or driving any horse, cattle, hogs, sheep, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, from passing through the said gates or turnpikes, until they shall respectively have paid the same; that is to say, for every space of five miles in length of the said road, from the borough of Easton to the foot of the Broad mountain on the south side thereof, the following sums of money, and so in proportion for any greater or lesser distance, or for any greater or lesser number of sheep, hogs or cattle, to wit: for every score of sheep, four cents; for every score of hogs, six cents; for every score of cattle, twelve cents; for

every horse or mule laden or unladen with his rider or leader, three cents; for every sulkey, chair, chaise with one horse and two wheels, six cents; and with two horses, nine cents; for every chair, coach, phaeton, chaise, stage, wagon, coachee or light wagon with two horses and four wheels, twelve cents; for either of the carriages last mentioned with four horses, twenty cents, and for every other carriage of pleasure under whatever name it may go, the like sums according to the number of wheels and of horses drawing the same; for every sleigh or sled, two cents for each horse drawing the same; for every cart or wagon or other carriage of burden, whose wheels do not in breadth exceed four inches, four cents for every horse drawing the same; for every cart or wagon whose wheels shall exceed in breadth four inches, and shall not exceed seven inches, three cents for each horse drawing the same; for every cart or wagon the breadth of whose wheels shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches and shall roll more than ten inches, two cents for each horse drawing the same; for every cart or wagon the breadth of whose wheels shall be more than ten inches, and not exceeding twelve inches, or being ten inches shall roll more than fifteen inches, one cent and a half for each horse drawing the same; and for any such carriage the breadth of whose wheels shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage as aforesaid shall be drawn by oxen or mules, in the whole or in part, two oxen shall be estimated as equal to one horse, and every ass or mule as equal to one horse in charging the aforesaid tolls; and for so much of the said road as shall pass over the Broad mountain, that is to say, from the foot of the said mountain to the south side thereof, to the town of Wilkesbarre aforesaid, the preceding rates of toll shall in every instance be doubled.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons owning, riding in or driving any carriage of burden or pleasure as aforesaid, or owning, riding, leading or driving any horse, mule, hogs, sheep or cattle as aforesaid, shall with

an intent to defraud the said company, or to evade the payment of any the tolls or duties aforesaid, pass therewith through any private gate or bar, or along or over any private passage way, or along or over any other ground or land near to or adjoining any turnpike or gate, which shall be erected in pursuance of this act, or if any person or persons shall, with the intent aforesaid, take off, or cause to be taken off, any horse other beast, or cattle of draught or burden, from any carriage of burden or pleasure, or shall practice any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending in manner aforesaid, shall for every such offence respectively forfeit and pay to the president, managers and company of the Easton and Wilkesbarre turnpike road, the sum of fifteen dollars, to be sued for and recovered with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations as debts under twenty pounds may be sued for and recovered.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof shall be given to any justice of the peace of the proper county, such justice shall issue a precept, to be directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road which is complained of, notice of which meeting shall be given to the keeper of the gate or turnpike nearest thereto, and the said justice shall at such time and place, by the oaths or affirmation of the said freeholders, enquire whether the said road or any part thereof, is in such good and perfect order and repair as aforesaid; and shall cause an inquisition to be made under the hands and seals of himself, and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair, according to the true intent and meaning of this act, he shall so certify and send

one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates, for the intermediate distance between them shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair as aforesaid; and if any of the keepers of the gates aforesaid shall take or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveler during the time the road shall continue out of repair, such keeper shall forfeit and pay to the person who shall prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace, as debts under forty shillings are by law recoverable; but if the same road shall not be put into good and perfect order and repair, before the next ensuing court of quarter sessions of the proper county, the said justice shall certify and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue, and bring in the bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road, as shall be found defective as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest, against the person or persons entrusted as aforesaid, and upon conviction shall give such judgment according to the nature and aggravation of the neglect, as the said court in their discretion shall judge proper. Provided, the fine in no instance shall be less than twenty dollars, nor exceeding one hundred dollars; and the fines so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said county, and shall be paid to the supervisors of the highways of the place wherein the offence was committed, to be applied to repairing such highways as the township or county is bound to repair, at the public expense thereof.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all

moneys which shall be received by them from the said commissioners, and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay in the payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also of all moneys by them to be expended in the prosecution of their said work; and shall once at least in every year submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened, according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the moneys subscribed for such shares, in like manner, and under the like penalties as are hereinbefore provided for the original subscriptions, or as shall be provided by their by-laws.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall also keep a just and true account of all and every the moneys to be received by their several and respective collectors of tolls at the several gates or turnpikes on the said road, which shall not exceed one for every five miles after the road is completed, from the beginning to the end thereof, or such part thereof, as shall from time to time be completed as aforesaid, and after the said road shall be completed, or so much thereof, as it may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges, and a reasonable

fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved, among all the subscribers to the stock of the said company, and shall on the first Monday in February and August in every year, publish the half yearly dividend to be made of the clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall at the end of every third year, from the date of the incorporation, until two years next after the whole road shall be completed, lay before the general assembly of this commonwealth, an abstract of their accounts, showing the whole amount of their capital expended in prosecution of the said work, and of the income and profits arising from the said toll, for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be known and ascertained; and if at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear from the average profits of the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum, on the whole capital stock of the said company so expended, and on the interest accrued on such expenditure during the time wherein the work shall be prosecuting before the receipt of toll, then it shall and may be lawful for the said president, managers and company to increase the tolls hereinbefore allowed, according to such rate upon the same, as will raise the dividend up to six per centum per annum as aforesaid; and at the end of every ten years after the said road shall be fully completed as aforesaid, they shall render to the general assembly a like abstract of their accounts for the three preceding years; and if at the end of any such decennial period it shall appear from such abstract, that the clear profits and income of the said company will bear a dividend of more

than ten per centum per annum, the surplus of that amount, when sufficient shall arise, shall be appropriated by the said president and managers, to the purchase of such share or shares of the said stock, as the money arising from the said surplus will be found adequate to purchase, until all the said shares shall be so purchased; and the said subscribers shall determine by lot from time to time, whose share or shares shall be paid off by the money arising as aforesaid, for which shares the said company shall pay the sums which were originally paid for each respective share; and when the whole number of shares shall be purchased as aforesaid, then the said road shall be free and no toll whatever shall be exacted.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected at the intersection of every road falling into and leading out of the said turnpike road, with boards and an index hand pointing to the direction of such road; on both sides whereof shall be inscribed in legible characters, the name of the town or place to which such road leads, and the distance thereof in computed miles; and shall also cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the court house in the borough of Easton, and extending thence to the town of Wilkesbarre, whereon shall be marked in plain legible characters, the respective number of miles which each stone is distant from the court house aforesaid; and at every gate or turnpike by them to be erected on the said road, shall cause the distance from the court house aforesaid, and the distances from the nearest gate or turnpike in each direction to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates, or some other conspicuous place near thereto; and also shall cause to be affixed at such places, for the information of travelers and others using the said road, a printed list of the rates of toll which from time to time may lawfully be demanded.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall willfully break, deface, pull up, or prostrate any

milestone, which shall be placed in pursuance of this act on the side of the said road, or shall obliterate the letters or figures inscribed thereon, shall wilfully break, pull down, deface, destroy, or injure any direction post, which shall be erected in pursuance of this act at the intersection of any road as aforesaid, or the board or index hand affixed thereto, in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface or obliterate the letters, figures or other characters marked on any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned; or the whole or any part of any printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this act at any such gate or turnpike, he or they so offending in the premises shall, and each of them shall, for every such offence, severally and respectively forfeit and pay to the said president, managers and company, the sum of twenty dollars, to be sued for and recovered with costs of suit before any justice of the peace in manner aforesaid.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said turnpike road, for the time being, shall and may, and they are hereby authorized and empowered at their choice and discretion, to grant, demise, and to farm let to any person or persons, with whom they can agree, the tolls and duties which by virtue of this act they are authorized to demand and receive, for passage in, upon and along the said road, at any gate or turnpike on the same, or any part of the same, for any term not exceeding seven years; under such rents and convenient reservations and conditions, as the said president and managers shall agree upon; which grants and demises shall have the same construction, force and effect, as other the like grants and demises made between private persons have and receive at law.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That all wagoners, carters and drivers of carriages of all kinds, whether of burden or pleasure using the said road, shall, except when overtaking

and passing by a carriage of slower draught, keep their horses and carriage on the right hand side of the said road free and clear for other carriages to pass and repass; and if any waggoner, carter or driver shall offend against this provision, he shall forfeit and pay any sum not exceeding six dollars to any person who shall by reason thereof be obstructed in his passage and will sue for the same before any justice of the peace, to be recovered with costs in like manner as aforesaid.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if any toll gatherer on the said road, shall demand and receive from any person or persons using the said road, any greater or higher rate of toll than by this act is authorized and allowed, such toll gatherer shall forfeit and pay the sum of twenty dollars for every such offence, one half to the use of the overseers of the poor of the township in which the forfeiture shall be incurred, and the other half to the use of the person suing for the same, to be recovered before any justice of the peace of the county where such offence shall have been committed.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That if in the case of any suit or prosecution, which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice before whom such suit or prosecution shall be depending; or by action before the court of the common pleas of the proper county, (if such prosecution had been instituted before the court of general quarter sessions of the peace; such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That no suit or action shall be brought or prosecuted by any person or persons, for

any penalties incurred under this act, unless such suit or action shall be commenced within six months next after the fact committed; and the defendant or defendants in such suit or action may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, that if the legislature should at any time after the year one thousand eight hundred and twenty-five, think proper to take possession of the said road, three persons shall be appointed by the governor, and three by the president and managers of the said company, and three by the judges of the supreme court; who, or any six or more of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor of this commonwealth, who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be paid by the state to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein shall cease and determine.

Section XXVI. (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall not proceed to carry on the said work, within three years after the passing of this act; or shall not within seven years thereafter complete the said road, according to the true intent and meaning of this act; then in either of those cases, it shall and may be lawful for the legislature of the commonwealth, to resume all and singular, the rights, liberties, privileges and franchises, by this act granted to the said company.

Approved February 11, 1803. Recorded L. B. No. 8, p. 215, etc.

CHAPTER MMCCCXXIX.

AN ACT AUTHORIZING WILLIAM WRIGHT TO LEAD OFF AND USE
PART OF THE WATERS OF THE SUSQUEHANNA, ON HIS OWN LAND,
IN YORK COUNTY.

Whereas it hath been represented to the legislature by William Wright, that he is proprietor of the land adjoining Chiquis falls, on the west side of Susquehanna river, in Hellam township, York county, and requesting permission of the legislature to lead off on his own land, part of the waters out of said river, for the supply of such waterworks as he may erect thereon.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That William Wright, proprietor of the land adjoining Chiquis falls, on the west side of the river Susquehanna, in York county, and his heirs and assigns, shall have liberty, and are hereby authorized and empowered, to lead off on the said land, a part of the water out of the said river, for the supply of such waterworks as he the said William Wright, his heirs and assigns, may see fit to erect thereon, and to build such dam in the said river, adjoining his said land, as shall be necessary for effecting the purpose intended: Provided always, that the said William Wright, his heirs or assigns, in building such dam and leading the water out of said river, do not infringe on, or injure the rights and privileges of any individual, nor in any wise impede or obstruct the navigation in the same: And provided also, that nothing herein contained shall be construed to impair any contract existing between this state and the Chesapeake and Delaware canal company, incorporated or to be incorporated by virtue of the act, entitled "An act to incorporate a company for the purpose of cutting and making a canal, between the river Delaware and the Chesapeake bay, and to authorize the clearing of obstructions in the river Susque-

hanna, down to the Maryland line, and for other purposes therein mentioned.”⁽¹⁾

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That on complaint made to the judges of the court of quarter sessions of the county aforesaid, they shall appoint three commissioners, to view the said dam, and compare it with the provisions of this act, and to report to them at their next session, the state thereof; which report if it contains an offence against this act, the court shall direct a bill of indictment, to be sent to the grand jury; and upon prosecution to conviction, the said William Wright, his heirs or assigns, shall be liable to pay a fine not exceeding two hundred dollars, at the discretion of the court; who shall order so much of said dam, to be thrown down as will bring the same within the limitations and provisions of this act, at the expense of the person convicted.

Approved February 11th, 1803. Recorded in L. B. No. 8, p. 228.

Note (1). Chapter 2186; 16 Statutes at Large, p. 549.

CHAPTER MMCCCXXX.

AN ACT TO AUTHORIZE SAMUEL BELL AND NICHOLAS GERST. THEIR HEIRS AND ASSIGNS RESPECTIVELY, TO ERECT MILLDAMS ON SWATARA CREEK, IN THE COUNTY OF DAUPHIN.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Samuel Bell, his heirs and assigns, to erect, support and for ever maintain a mill dam across Swatara creek, adjoining his own land, and with the consent and approbation of the owners of the land on the opposite side of the said creek, of such convenient height as he or they may think necessary, for the purpose of drawing off thereby so much of the water out of the said creek, as may be necessary for his mill and other waterworks: Provided, that he or they shall erect a good and sufficient lock, and keep the same in good order

and repair for the free passage of boats, and such slope as may admit the passage of fish without interruption over the said dam, and also, that the rights of individuals shall be preserved.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for Nicholas Gerst, his heirs and assigns, to erect, support and for ever maintain, a mill-dam across Swatara creek, opposite to his or their own land, with the consent and approbation of the owner of the land on the opposite side of the said creek, of such convenient height as may be necessary for the purpose of drawing off thereby so much of the water out of the said creek, as may be necessary for his mill and other water-works: Provided, he or they shall make a good and sufficient lock, for the free passage of boats, and keep the same in good order and repair, and such slope as may admit the passage of fish without interruption over the said dam, and also that the rights of all and every individual shall not be injured or infringed by any of the privileges granted by this act.

Approved February 11th, 1803. Recorded in L. B. No. 8, p. 229.

CHAPTER MMCCCXXI.

AN ACT FOR SETTLING THE ACCOUNTS OF THE TRUSTEES OF WAYNE COUNTY, AND VESTING THE POWERS OF SAID TRUSTEES IN THE COUNTY COMMISSIONERS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of Wayne county, shall on or before the first day of June next, settle and adjust the accounts of the trustees of said county, and pay out of the county stock, such sum or sums of money, as they may find due to the said trustees, or either of them. Provided, that such settlement be first approved of by the auditors of the said county.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That from and after the settlement of the trustee's books as aforesaid, and the payment of such sum or sums as shall be found due to them, or either of them, then the board of trustees shall be dissolved, and the powers granted to them by an act, entitled "An act to authorize the removal of the seat of justice in the said county of Wayne, and for other purposes," passed the first day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ shall be vested in the county commissioners for the time being, and their successors in office.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the trustees, or a majority of them, are hereby authorized and required, on the receipt of the sums found due to them, or either of them, to convey to the county commissioners and their successors in office, in trust, for the purposes for which it was granted, all the lands remaining unsold, conveyed to them for the purposes of erecting public buildings at Bethany, in the said county, any law to the contrary in any wise notwithstanding.

Approved February 11th, 1803. Recorded L. B. No. 8, p. 230.
Note (*). Chapter 2047; 16 Statutes at Large, p. 237.

CHAPTER MMCCCXXXII.

AN ACT TO VEST IN SOPHIA BIDDLE, FOR THE USE OF HERSELF AND CHILDREN, CERTAIN PARTS OF THE FORFEITED ESTATE OF JOHN BIDDLE, WHICH HAVE NOT YET COME INTO THE POSSESSION OF THIS COMMONWEALTH.

Whereas it has been represented to the legislature, that small portions of the estate of John Biddle, forfeited by his attainder, have never been sold or seized on behalf of the public, and Sophia Biddle, widow of the said John Biddle, has prayed that the same might be vested in her for the use of herself and children: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all right, title, interest, property, claim and demand whatsoever, which this commonwealth, hath in, to and out of, such parts of the estate, real and personal of the said John Biddle, forfeited by his attainder aforesaid, as have not heretofore been seized, sold, aliened or any way disposed of, by and on account of the public, be, and the same are hereby granted, conveyed, assigned, set over, and vested in the said Sophia Biddle, for the use of herself and her children, by the said John Biddle, in the same manner and proportions, as the same would have been under the act passed the nineteenth day of April, one thousand seven hundred and ninety-four,⁽¹⁾ entitled "An act directing the descent of intestate' real estates and distribution of their personal estates, and for other purposes therein mentioned," as if the said John Biddle had never been attainted, and had died since the passing of the said act.

Approved February 21st, 1803. Recorded in L. B. No. 8, p. 231.

Note (1). Chapter 1751; 15 Statutes at Large, p. 80.

CHAPTER MMCCCXXXIII.

AN ACT APPOINTING FOUR TRUSTEES, IN ADDITION TO THOSE HERETOFORE APPOINTED FOR THE COUNTY OF BEAVER, AND FOR OTHER PURPOSES.

Whereas by an act passed the twelfth of March, one thousand eight hundred,⁽¹⁾ there was granted for the use of an academy, or public school in Beavertown, five hundred acres of land, and three persons therein mentioned, appointed to hold the same in trust for the purpose aforesaid, and no provision was made by the said act, authorizing said trustees, to farmlet, lease, or otherwise dispose of said land, or to complete the intention of the legislature, in erecting a suitable building for an academy in said town: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That John Lawrence, Esq., Guion Grier, James Alexander and Samuel Johnson, be, and they are hereby appointed trustees for the land granted by an act passed the twelfth of March, one thousand eight hundred,⁽¹⁾ for the use of an academy in Beavertown, which trustees, together with those appointed under the act aforesaid, or a majority of them, shall have power to farmlet, lease, or otherwise dispose of said land, for any term not exceeding fifteen years from and after the passing of this act, with all other powers vested by the act aforesaid, in the trustees of Beaver county.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That said trustees or a majority of them, are hereby empowered to erect or cause to be erected, a suitable building on one of the public squares, in the said town of Beaver for an academy, and to receive any grant or grants of land, or any other less estate, which have or may be made or given to them, or the former trustees for the use or advantage of said academy, and to take to themselves in fee simple, or otherwise, any conveyance or assurance, in trust for the same, and to ask or demand, sue for, and recover all such sum or sums of money, as may have at any time been or may be hereafter subscribed, for the use of the said academy, and also to apply all the proceeds, rents and issues arising from the grant of land aforesaid, for the use of said institution.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said trustees and every of them, shall give bond with two sufficient sureties, for the use of said seminary, to the commissioners of the county, and their successors in the sum of six hundred dollars, for the faithful performance of the duties enjoined on them by this act. And moreover, once in every year, exhibit their accounts to the grand jury of the county, for their inspection and approbation.

CHAPTER MMCCCXXXIV.

AN ACT TO AUTHORIZE AND EMPOWER THE COMMISSIONERS OF THE COUNTY OF SOMERSET, TO SELL AND CONVEY FOUR CERTAIN LOTS OF GROUND, AND FOR OTHER PURPOSES THEREIN MENTIONED.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the board of commissioners of the county of Somerset, and their successors in office, be, and they are hereby, authorized to sell by public sale, they having first given ten days public notice thereof, four certain lots of ground, situate in the town of Somerset, in said county, marked in the general plan of said town, with the numbers 137, 138, 139 and 140, now the property of the county, and to make to the purchaser or purchasers the necessary deed or deeds of conveyance, in fee simple, and to the use of the county.

Approved February 21st, 1803. Recorded in L. B. No. 8, p. 234.

CHAPTER MMCCCXXXV.

AN ACT TO PROVIDE FOR FILLING THE VACANCY IN THE OFFICE OF STATE TREASURER, OCCASIONED BY THE DEATH OF JACOB CARPENTER, ESQUIRE.

Whereas it is declared by the fifth section, of the sixth article of the constitution of this commonwealth, that the state treasurer shall be appointed annually by the members of both houses: And whereas by the death of Jacob Carpenter, esquire, late state treasurer, that office has become vacant: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That the members of both houses, shall meet in the senate chamber, at twelve o'clock, on Monday the twenty-eighth instant, and then and there appoint a state treasurer, to continue in office, until the second Tuesday of January next, that each house shall previous to such appointment, choose a teller and furnish the other house with a minute of such choice, and that the speaker of the Senate, shall be the president of the meeting of the members, so to be assembled for the purpose aforesaid; and it shall be the duty of the said tellers respectively, to take down in writing the name of every person voting at such election, and that of the person for whom he shall vote, and make report thereof to their respective houses, in order that the same may be entered on their minutes; and when it shall appear that any person has been duly elected, duplicate certificates of such election shall be made out and signed by the president of the said meeting, and by each of the said tellers, one copy whereof shall be sent to the person elected, and the other shall be filed and recorded in the rolls office of this commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the treasurer who shall be appointed, according to the provisions of this act, before he enters on the duties of his office, shall give bond with sureties in the sum and manner prescribed by the act, entitled "An act to ascertain the security to be given by the treasurer of the state for the time being," passed the nineteenth of November, one thousand seven hundred and eighty-nine.⁽¹⁾

Approved February 25, 1803. Recorded in L. B. No. 8, p. 234.

Note (1). Chapter 1465; 13 Statutes at Large, p. 410.

CHAPTER MMCCCXXXVI.

AN ACT ESTABLISHING THE COMPENSATION OF THE DEPUTY SECRETARY OF THE COMMONWEALTH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That from and after the passing of this act, the salary of the deputy secretary of this commonwealth shall be twelve hundred dollars per annum, any law or laws to the contrary notwithstanding.

Approved February 25, 1803. Recorded L. B. No. 8, p. 235.

CHAPTER MMCCCXXXVII.

AN ACT TO ERECT A CERTAIN ELECTION DISTRICT IN THE COUNTY OF WAYNE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the township of Buckingham, Damascus, and that part of Lackawaxen township, lying north of Lackawaxen creek, and east of the Barrens in said township, are hereby erected into a separate election district, to be called Saint Tammany district; and the electors thereof shall hold their general elections at the house now occupied by Reuben Skinner, in said county.

Approved February 25, 1803. Recorded L. B. No. 8, p. 236.

CHAPTER MMCCCXXXVIII.

AN ACT DISSOLVING THE MARRIAGE BETWEEN JOHN ALEXANDER AND HANNAH HIS WIFE.

Whereas John Alexander, of Springfield township, in the county of Delaware, by his petition to the legislature, hath represented that on the twenty-third day of October, in the year of our Lord one thousand eight hundred, he was lawfully joined in marriage, with a certain Hannah Wells, and that afterwards, to wit: On the fourth day of December, in the same year, she the said Hannah, was delivered of a mulatto child, from which circumstance, it is evident that the

said John Alexander, was grossly deceived, and imposed upon by the said Hannah, and hath therefore prayed for a divorce: And whereas, the foregoing representation of facts, appears to be true, and the case of the petitioner being of a peculiar nature, it is reasonable and just, that a person so much injured and deceived, should obtain relief, especially as the existing law is inadequate to the purpose: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the marriage of the said John Alexander, and Hannah Alexander, be, and the same, is hereby declared to be void and annulled, to all intents and purposes whatsoever, and they are hereby respectively declared to be set free, and totally discharged from the matrimonial contract, and from all duties and obligations arising therefrom, as fully, effectually and absolutely as if they had never been joined in matrimony, any law, usage or custom to the contrary notwithstanding.

Approved February 25th, 1803. Recorded in L. B. No. 8, p. 236.

CHAPTER MMCCCXXXIX.

AN ACT TO AUTHORIZE THE ELECTORS OF THE SIXTH ELECTION DISTRICT IN THE COUNTY OF HUNTINGDON. TO HOLD THEIR GENERAL ELECTIONS AT THE HOUSE OF JAMES ENTREKEN, AT THE MOUTH OF COFFEE RUN, ON THE RAYSTOWN BRANCH OF JUNIATA RIVER.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors of the sixth election district, in the county of Huntingdon, shall hold their general elections at the house now occupied by James Entreken, at the mouth of Coffee run, on Raystown branch of Juniata river, in Hopewell township.

Approved February 25, 1803. Recorded L. B. No. 8, p. 237.

CHAPTER MMCCCL.

SUPPLEMENT TO AN ACT, ENTITLED "AN ACT TO INCORPORATE A COMPANY FOR THE PURPOSE OF CUTTING AND MAKING A CANAL BETWEEN THE RIVER DELAWARE AND CHESAPEAKE BAY." (1).

Whereas the legislature of this state, by an act passed on the nineteenth of February, one thousand eight hundred and one,⁽¹⁾ enacted that it should be lawful to receive subscriptions for cutting the said canal, from the first day of March, one thousand eight hundred and two, unto the first day of March, one thousand eight hundred and three, and as the said term is nearly expired, and the books of subscriptions are not so far filled, as that the organization of the said company can lawfully be formed or take place: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the managers appointed by the said act of February the nineteenth, one thousand eight hundred and one⁽¹⁾, or any of them, are hereby empowered and required to keep open the books of subscription, and receive subscriptions for cutting and making the said canal, between the river Delaware and Chesapeake bay, from and after the first day of March next unto the first day of January next, and if it shall appear that a sufficient number of shares are subscribed, to enable the managers appointed to proceed in the organization of the company, at anytime previous to the said first day of January next, then it shall and may be lawful for the managers to proceed agreeably to the laws of Maryland, Delaware and Pennsylvania, completely to form the said company and proceed therein.

Approved February 28, 1803. Recorded L. B. No. 8, p. 238.

Note (1). Chapter 2186; 16 Statutes at Large, p. 549.

CHAPTER MMCCCXLI.

AN ACT TO AUTHORIZE THE SURVIVING COMMISSIONERS NAMED IN CERTAIN COMMISSIONS OF BANKRUPTCY, TO PROCEED IN THE EXECUTION OF THE SAID COMMISSIONS, AND FOR OTHER PURPOSES THEREIN MENTIONED.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful, for the surviving commissioners or commissioner in any commission of bankruptcy, which has been issued by the executive authority of this commonwealth, to proceed in the execution of all such matters and things, as may remain to be done and executed, in relation to such commission of bankruptcy; and such surviving commissioners or commissioner as the case may be, shall have and possess the same powers, and be subject to the same duties, as were originally granted to and enjoined on the whole of the commissioners, in such commission named.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That in all cases where by reason of death, inability or absence from the state, there shall remain no commissioners authorized to act in regard to the estate of any person, who has heretofore been declared a bankrupt, under the authority of this commonwealth, it shall be lawful for the governor from time to time, as occasion may require, to issue a new commission, directed to any number of commissioners therein named, not exceeding three, which commissioners so to be appointed or the major part of them, shall have similar powers, and perform like duties, as the commissioners originally appointed in such cases respectively possessed, and were authorized to perform.

CHAPTER MMCCCLXII.

AN ACT ESTABLISHING AND CONFIRMING THE PLACE FOR HOLDING THE COURTS OF JUSTICE, AND FOR ERECTING THE PUBLIC BUILDINGS FOR THE COUNTY OF BUTLER.

Whereas in pursuance of an act passed the sixth of April, one thousand eight hundred and two,⁽¹⁾ entitled "An act to establish the places for holding the courts of justice in the counties of Armstrong, Butler and Mercer," it appears that the governor did appoint Isaac Weaver, John Hamilton, Thomas Morton, James Brady and Prely Carr Lane, esquires, to be commissioners to perform the duties enjoined and required by the said act. And whereas, by the report of the said commissioners deposited by them in the office of the secretary of the commonwealth, and now laid before the general assembly, it appears that the said commissioners have performed the duties enjoined and required by the said act. In order therefore to complete and secure to the people of the said county of Butler, the benefits intended in and by the act aforesaid:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That John M'Bride, esquire, William Elliott, esquire, and John David, be, and hereby, are appointed trustees for the county of Butler, and the said trustees or a majority of them, are hereby authorized and required to survey or cause to be surveyed, three hundred acres of land, situate on the north side of Conequinesing creek, near Samuel Cunningham's mill, agreeably to a description given of the situation and boundary thereof, expressed in the grant and obligation of Samuel Cunningham, John Cunningham and Robert Graham, made by them to the governor for the use of the county of Butler; and the said trustees are hereby authorized and required to lay out a convenient lot or lots of land, within the said three hundred acres, not exceeding five acres,

whereon the public buildings shall be erected for the use of the county of Butler, and the surplus or residue of said three hundred acres of land, which shall remain after the sites for the public buildings are set apart and determined, shall be laid out for a town, with suitable town lots and out lots, at the discretion of the trustees with necessary reservations, for a quarry, streets, lanes, alleys, and roads, or highways. Provided however, that no out lot shall exceed five acres; and the town hereby directed to be laid out shall be called Butler.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the trustees, or a majority of them, to sell by public auction, the said town lots and out lots, at such time or times, as they may judge most advantageous to the county, which sale shall be held at the said Cunningham's mill, in the said county; previous to which the said trustees shall advertise the same, three times at least in one or more newspapers published in Pittsburgh, Greensburg and Washington, one month before the day appointed for such sale. Provided that before the said commissioners proceed to the discharge of the duties, herein enjoined and required, they shall demand and receive from the aforesaid Samuel Cunningham, John Cunningham and Robert Graham, sufficient deeds, in fee simple, of the above described three hundred acres of land, in trust for the use of the said county of Butler, agreeably to the grant thereof heretofore made to the governor, for the use of the county of Butler, by the said Samuel Cunningham, John Cunningham and Robert Graham, and shall procure the same to be recorded in the office for recording of deeds, in Allegheny county; and when the said trustees have so done, they shall have authority, and it shall be their duty, to make out and grant sufficient deeds, in fee simple, for the town and out lots by them sold in pursuance of this act.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the aforesaid trustees or a majority of them, shall within two years after the said county of Butler shall be organized, and the courts and board of com-

missioners in operation, surrender and convey all the trust vested in them by this act, to the commissioners of Butler county, and to their successors in office; and the said county commissioners and their successors shall enjoy and exercise all the powers vested in, and discharge all the duties required and enjoined on the said trustees, as fully to all intents and purposes, as if they were expressly herein named; and the said county commissioners shall have power, and it shall be their duty, to call upon, and if necessary to compel the said trustees or either of them, by suit to settle their accounts with respect to the performance of their trust, and pay over the money due to the county, if any such money remains in their hands, to the treasurer of Butler county, subject to the disposal of the said county commissioners.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the aforesaid trustees shall each receive one dollar and thirty-three cents, for every day they shall be employed in the performance of the duties of the aforesaid trust together with all expenses necessarily incurred, for assistance in surveying and laying out lots, streets, lanes and alleys, which shall be paid by the treasurer of the county of Allegheny, on orders, from the commissioners of said county, out of the county taxes levied in Butler county.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall as soon as may be, file a draught and return of the survey and proceeding under and by virtue of this act, in the office of the recorder of deeds, in and for the county of Allegheny, or in the said office for the county of Butler, if such office be then established by law.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That so much of the act passed the twelfth of March, one thousand eight hundred,⁽²⁾ entitled "An act erecting certain parts of Allegheny, Westmoreland, Washington and Lycoming counties, into separate counties," as authorizes the commissioners therein named, to be trus-

tees for the county of Butler, shall be and hereby is repealed and made void.

Approved March 8, 1803. Recorded L. B. No. 8, p. 239.

Note (¹). Chapter 2296; Supra, this volume, p. 146.

Note (²). Chapter 2130; 16 Statutes at Large, p. 454.

CHAPTER MMCCCLIII.

AN ACT TO RAISE BY WAY OF LOTTERY, A SUM NOT EXCEEDING FIVE THOUSAND DOLLARS, FOR THE PURPOSE OF COMPLETING THE BUILDING OF THE BUSTLETON ACADEMY, IN THE COUNTY OF PHILADELPHIA.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Samuel Swift, Strickland Foster, Jacob Shearer, John Holmes, junior, John Thompson, Elisha Gordon, Edward Swift, Jacob Hall, Bernard J. Malleson and William Duncan, be, and they are hereby appointed commissioners, to raise by way of lottery a sum not exceeding five thousand dollars, to be applied to the defraying of the expense of completing the building of the Bustleton academy, in the county of Philadelphia, in such manner as to the trustees of the said institution, or a majority of them, may appear most beneficial to said academy.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That each of the said commissioners shall previously to entering upon the duties of his office, take and subscribe an oath or affirmation, diligently and faithfully to perform the duties entrusted to him, and at least two of them shall attend at the drawings of each day, and when the whole is completed, shall cause an accurate list of the fortunate numbers in the said lottery to be published, in at least two newspapers printed in the city of Philadelphia, and the expences necessarily attending the carrying of this act into effect, shall be paid by the said commissioners, out of the net proceeds of the said lottery.

Section III. (Section III, P. L.) And be it further en-

acted by the authority aforesaid, That the said commissioners be, and they are hereby authorised, to settle and adjust all accounts which may be exhibited by any person or persons, legally employed in carrying this act into effect.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners, previously to selling any tickets in the said lottery, shall lay the scheme thereof before the governor of this commonwealth to be approved by him, and shall also enter into bonds to the governor, for the due and faithful performance of the duties imposed on them by this act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months after publication as aforesaid, shall be considered as relinquished for the benefit of the institution.

Approved March 8, 1803. Recorded in L. B. No. 8, p. 241.

CHAPTER MMCCCXLIV.

A FURTHER SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO ERECT THE TOWN OF SUNBURY IN THE COUNTY OF NORTHUMBERLAND INTO A BOROUGH." (1).

Whereas the burgesses and sundry inhabitants of the borough of Sunbury, in the county of Northumberland, by their petition to the legislature, have suggested certain alterations and amendments of the existing acts of incorporation of the said borough, whereby the same would be rendered more conformable to the wishes and convenience of the said inhabitants: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the inhabitants of the said borough, qualified to vote for burgesses and assistants, shall at the same time and place at which burgesses and assistants are elected, annually elect eight inhabitants of the said borough qualified as aforesaid, to serve as common councilmen,

each of whom before he enters on the duties of his office, shall take an oath or solemn affirmation, before some judge or justice of the peace of the said county, well and faithfully to execute the office of a common councilman of the said borough.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said burgesses, assistants and common councilmen, in common council assembled, shall have full power and authority to frame all laws and ordinances, necessary and convenient for the government and welfare of the said borough, and the same at their discretion to revoke, alter and make anew, as occasion may require, reserving nevertheless to the inhabitants at large, duly qualified as aforesaid, in their town meetings, to revoke, alter and amend the said laws and ordinances. Provided, that a majority of the whole number of the said inhabitants concur in such revocation, alteration or amendments.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That in order to give due notice of such laws and ordinances, and that a full opportunity may be had for the inhabitants aforesaid, to revoke, alter or amend the same, the said laws shall be published for ten days before they shall obtain any operation; and in the interval a town meeting shall be convened by the burgesses and assistants; and if at such town meeting a sufficient number of the inhabitants shall not appear to revoke or alter the said laws or ordinances, or appearing shall not revoke or alter the same, the said laws and ordinances shall at the expiration of the said ten days become of full force and effect, subject nevertheless to revocation, alteration or amendment by the said common council, or by a majority of the whole number of inhabitants duly qualified as aforesaid, at any subsequent town meeting.

CHAPTER MMCCCXLV.

AN ACT TO ERECT A NEW ELECTION DISTRICT IN THE COUNTY OF DAUPHIN, AND TO ALTER THE PLACE OF HOLDING THE GENERAL ELECTIONS FOR THE TWO ADJOINING DISTRICTS.

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the following boundaries shall compose an election district, to wit: Beginning at the west side of Susquehanna river, opposite the end of Peter's mountain; thence across the said river and along the top of said mountain to the line of Berks county; thence along said line to the top of Wisconesco or Berry's mountain; thence along the highest ridge thereof, and across the said river; thence down the same, to the place of beginning, shall compose an election district; and the electors thereof shall hold their general elections at the house now occupied by John Evig, in the town of Halifax, in the said county of Dauphin.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the electors residing in the township of Middle Paxton, to the southward of Peter's mountain shall hold their elections at the house now occupied by John Filson, in said township; and the electors of Upper Paxton township, residing to the northward of Wisconesco or Berry's mountain, shall hold their elections at the house now occupied by George Bufington, in said township, anything in any law to the contrary notwithstanding.

CHAPTER MMCCCXLVI.

AN ACT ERECTING ONE NEW ELECTION DISTRICT, AND MAKING ALTERATIONS IN OTHER DISTRICTS, IN NORTHUMBERLAND COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the townships of Mahoning and Hemlock, in the said county, shall be a separate election district, to be called Danville district; and the electors thereof shall hold their general elections at the house of William Sheriff, in the town of Danville, in the township of Mahoning; and that the place of holding the general elections in the district usually called the sixth district, be, and is hereby changed from the house of Albright Swineford, to the house of John Swineford, in the town of Middleburg, in Penns township; and that the lines of New Berlin district be, and are hereby altered as follows, viz: Beginning at the house of Toran O'Quin; thence to the top of the middle ridge of Shamokin hills; thence by the same until opposite the southwest corner of Hugh Wilson's land; thence to said corner; thence by the line of division between the said Hugh Wilson's land and the tract of land on which Joshua Davis lives on the Limestone ridge; thence to John Steele's, and thence to Christopher Seabold's mill, including the farms of the persons above named, who together with the other electors residing within the said boundary shall elect at the town of New Berlin, any law or laws to the contrary hereof notwithstanding.

Approved March 16th, 1803. Recorded L. B. No. 9, p. 4.

CHAPTER MMCCCLVII.

AN ACT TO EMPOWER SAMUEL MILES, TO SELL AND CONVEY CERTAIN REAL ESTATE IN THE SAME ACT MENTIONED, AND FOR OTHER PURPOSES.

Whereas Samuel Miles and Rebecca Miles, by their petition to the general assembly have represented, that William Wister, late of the city of Philadelphia, died intestate with respect to certain estate situate in the said city, and in the county of Northumberland, and purchased by him subsequent to the date of his last will and testament; that Catharine, Samuel, William and James Miles, being minors and grandchildren of the first before named Samuel Miles, and lawful children of James Miles, deceased, and the aforesaid Rebecca his wife, by reason of the aforesaid William Wister having died intestate as aforesaid, have through their father the said James Miles, deceased, become heirs, as tenants in common to one eighteenth part of the real estate aforesaid; that the uncles and aunts of the said minors being severally entitled in fee to the one eighteenth part of the said real estate, have, (or the greater part of them hath) sold and conveyed in fee, their respective shares of a house and lot in Third street between Market and Arch streets, in the city of Philadelphia, to John Wister of the said city, for the sum of eight hundred dollars for each share aforesaid; that the said petitioners apprehend that if the said minors share of the aforesaid real estate were sold, the money arising from such sale can be so appropriated and applied, as to produce a greater benefit to the said minors, than can be obtained from the mere income thereof, and that the said petitioners pray that some person may be authorised to sell and convey in fee, the said minors share of the real estate aforesaid: And whereas, the aforesaid petitioner Samuel Miles hath also represented, that one other eighteenth part of the aforesaid real estate hath descended to his son Charles, a minor, who as far as he is capable hath agreed to the sale thereof, that it

would be advantageous to him that such sale should be made, and that it is also the prayer of the petitioner that some person may be authorized to sell and convey in fee, his said son Charles's one eighteenth part of the real estate aforesaid: And whereas, it appears just and reasonable to grant the prayer of the petitioners: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Samuel Miles the aforesaid petitioner be, and he is hereby authorized, at such time as he may think proper, during the minority of the said four minor children of his said son James, deceased, to sell and convey in fee simple, for such price, and in such manner, and on such terms and conditions, as he shall think most advantageous, either for cash or credit, all or any part of the said one eighteenth part of the said undivided real estate, to which the said minors have in manner aforesaid become entitled, as tenants in common; and that all contracts and agreements, deeds and conveyances, of or concerning the said one eighteenth part of the real estate aforesaid, made by the said Samuel Miles during the minority of his said four grandchildren, shall be as good and effectual in law, to all intents and purposes, as if the same had been made by his said grandchildren, after they severally attain the age of twenty-one years.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That upon any contracts or sales, made of or concerning the last aforesaid one eighteenth part, of the said undivided real estate, it shall be the duty of the said Samuel Miles, to take bonds with such real or personal security as he shall judge sufficient, in the names of his said grandchildren, and for such part of the purchase money as shall not be paid in cash, and his receipts for all or any part of the purchase money, which may be paid in cash, shall be a good discharge to the purchaser or purchasers, and he shall pay over the said cash, and deliver said bonds and securities to his said grandchildren, their executors, administrators or

assigns, or to such persons as they shall appoint to receive the same, accounting at the same time for the profits that may be made by or out of the proceeds of such sale.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That all the powers and authorities by this act given to the said Samuel Miles, shall cease and determine, in respect to the share of any one of his grandchildren, of, in or to, the first aforesaid one eighteenth part of the said undevise real estate, as soon as he or she shall attain the age of twenty-one years: Provided, that all the contracts touching the last aforesaid one eighteenth part of the said undevise real estate, made by him the said Samuel Miles, during the minority of his said grandchildren respectively, so far as the same affect such minor, shall be as obligatory on him or her, and of the same force and effect as if made by him or her, after attaining the age of twenty-one years.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said Samuel Miles under and subject nevertheless, in the exercise of the power by this section granted, to all the limitations, conditions, and restrictions, and with all the force and effect in every respect whatsoever, to and with which, he may or can by this act sell and convey in fee simple, the first aforesaid, one eighteenth part of the said undevise real estate, shall be, and he is hereby authorized to sell and convey, in fee simple, his said son Charles's one eighteenth part of the undevise real estate aforesaid: Provided always, that the said Samuel Miles shall give bond, with sufficient sureties to the orphans court, of the city and county of Philadelphia, that he, his heirs, executors or administrators, shall pay the said Catharine, Samuel, William, James and Charles Miles, or in case of the death of either of them, before he or she arrives at the age of twenty-one years, then to such person as would have been entitled to said estate, if it had remained unsold, the full amount of the sum for which the said Samuel shall sell the same, together with any increase of profit which may arise from the use thereof.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That no conveyance made in pursuance of this act, shall ever be so construed as to bar, or in any manner defeat or affect the claims of any person or persons, other than the said Charles Miles, and the said four grandchildren of Samuel Miles aforesaid, of, in or to, the before described two eighteenth parts of the undivided real estate aforesaid, or of any part or appurtenance thereof, in any wise thereunto appertaining.

Approved March 16, 1803. Recorded in L. B. No. IX, p. 9.

CHAPTER MMCCCXLVIII.

AN ACT ERECTING BETHEL TOWNSHIP IN THE COUNTY OF BERKS,
INTO AN ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Bethel township, in the county of Berks, is hereby erected into an election district, and the electors thereof shall hold their elections at the house now occupied by Michael Miller in said township.

Approved March 16, 1803. Recorded L. B. No. 9, p. 9.

CHAPTER MMCCCXLIX.

A SUPPLEMENT TO THE MILITIA LAW OF THIS COMMONWEALTH

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That if any commissioned officer in the city of Philadelphia, the township of the Northern Liberties or the district of Southwark, shall cease to reside therein, and remove therefrom for the space of six months, unless on public business, he shall forfeit his commission and

not otherwise. That the volunteer companies that now are, or hereafter may be, raised in the city of Philadelphia, the township of the Northern Liberties and the district of Southwark, shall muster with the regiment to which they have attached themselves, and shall not be subject to fines for nonattendance on days of regimental musters within the bounds of the regiment in which they reside, unless such corps shall have attached themselves to such regiment; and that the said volunteer companies shall have the right to vote for the field officers of the regiment, to which they are attached, they claiming no right to vote for field officers elsewhere, any law to the contrary notwithstanding.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the operation of the fifth section of an act, entitled "An act for the regulation of the militia of the commonwealth of Pennsylvania," passed April sixth, one thousand eight hundred and two,⁽¹⁾ shall be suspended for three years so far as relates to the uniform of companies who had uniformed themselves previous to the passing of said act, unless called into actual service before the expiration thereof.

Approved March 21, 1803. Recorded L. B. No. 9, p. 9-10.

Note (1). Chapter 2302; Supra this volume, p. 174.

CHAPTER MMCCCL.

AN ACT TO ERECT THE TOWN OF CHAMBERSBURG, IN THE COUNTY OF FRANKLIN, INTO A BOROUGH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the town of Chambersburg, in the county of Franklin and its vicinity, shall be, and the same is hereby erected into a borough, which shall be called the borough of Chambersburg, bounded and limited as fol-

lows; that is to say, Beginning at a corner of James Welsh and John Kerr's land, near the brick meetinghouse, and thence running south forty-five degrees east, forty-three perches to the corner of an alley west of Front street; thence south fifty-one degrees east, fifty-nine perches, to the east side of Second street; thence with said street north nine degrees east, about thirty-five perches to a post on the east side of said street; thence south eighty-one degrees east, fifteen and one half perches to Frederick Reamer's land; thence north nine degrees east, seventy-six perches to the north side of an alley; thence with lots of D. Madeira, south eighty-one degrees east thirty-six perches to Edward Crawford's land; thence north nine degrees east, forty-nine perches to the road leading to Black's Gap; thence north fifty-eight degrees west, eighteen perches to Third street; thence with said street north nine degrees east, seventy-two perches to Benjamin Chamber's meadow; thence north eighty-one degrees west, sixteen and one half perches to the west side of an alley; thence north nine degrees east, fifty-eight perches to Joseph Chambers's land; thence north eighty-one degrees west, fifteen and one half perches to Second street; thence with said street north nine degrees east, twenty-two perches to the junction of Second street and the Great road; thence along the east side of the aforesaid road south forty-two degrees west, sixty-six perches to a corner; thence by land of Nicholas Clopper north eighty-two degrees west, twenty-eight perches to Conecocheague creek; thence with said creek crossing the same south twenty-eight degrees west forty perches to the north side of King street; thence with said street north eighty-one degrees west thirty-four and one half perches to the east side of Strasburg road; thence south eight degrees west, seventeen perches to a corner (opposite) Patterson's stable; thence north eighty-one degrees west, thirty-five perches to the west side of John Shryock's lots; thence south nine degrees east, fifteen and one half perches to Market street; thence with said street south eighty-one degrees east, eighteen perches to a post on the north side of said road; thence south nine degrees east, seventy-six perches to the creek at Washington street;

thence by the south side of the aforesaid street south eighty-one degrees east, twenty perches to the corner of the Reverend Mr. Stock's lot; thence south nine degrees west, fifteen and one half perches to the south end of said lot; thence south eighty-one degrees east, nineteen perches to an alley; thence with said alley south nine degrees west, forty-eight perches to the place of beginning.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for all persons entitled to vote for members of the legislature, who have resided in said borough twelve months previous to such election, to meet at the courthouse in the said borough on the first Monday in May in every year, and then and there elect by ballot, between the hours of twelve and six o'clock of the same day, one reputable citizen residing therein, who shall be styled the burgess of the said borough, and five reputable citizens to be a town council, and shall also elect as aforesaid, one reputable citizen as high constable; but previous to such election the inhabitants shall elect two reputable citizens as judges, one as inspector and two as clerks of the said election, which shall be regulated and conducted according to the general election law of this commonwealth, so far as relates to receiving and counting votes, and who shall be subject to the same penalties for malpractices as by the said law is imposed. And the said judges, inspectors and clerks, before they enter upon the duties of their respective offices, shall take an oath or affirmation before any justice of the peace of the said county, to perform the same with fidelity, and after the said election shall be closed, shall declare the persons having the greatest number of votes to be duly elected; whereupon duplicate certificates thereof shall be signed by the said judges, one of which shall be transmitted to each of the persons elected, and the other filed among the records of the corporation: and in cases of death, resignation, removal, or refusal to accept of any of the said offices, the burgess, or in his absence or inability to act, the first named of the town council shall issue his precept directed to the high constable, requiring him to hold an election in manner afore-

said to supply such vacancy, giving at least ten days notice by advertisements, set up at four of the most public places in the said borough.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the first Monday in May next, the burgess and town council duly elected as aforesaid, and their successors, shall be one body politic and corporate in law, by the name and style of "The burgess and town council of the borough of Chambersburg," and shall have perpetual succession. And the said burgess and town council aforesaid, and their successors, shall be capable in law, to have, get, receive, hold and possess goods and chattels, lands and tenements, rents, liberties, jurisdictions, franchises and hereditaments, to them and their successors in fee simple or otherwise, not exceeding the yearly value of five thousand dollars; and also to give, grant, sell, let and assign, the same lands, tenements, hereditaments and rents, and by the name and style aforesaid; they shall be capable in law to sue and be sued, plead and be impleaded, in any of the courts of law in this commonwealth, in all manner of actions whatsoever, and to have and to use one common seal, and the same from time to time at their will to change and alter. Until it shall be otherwise directed by law, the inhabitants of the said borough may hold two fairs every year hereafter, to continue two days each, commencing on the first Thursday in June, and upon the first Thursday in October.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person duly elected as burgess, or a member of the town council, or constable as aforesaid, and having received notice thereof as aforesaid, shall refuse or neglect to take upon himself the execution of the office, to which he shall have been elected, every person so refusing or neglecting shall forfeit and pay the sum of twenty dollars, which fine and all other fines and forfeitures incurred and made payable in pursuance of this act, or of the by-laws and ordinances of the town council, shall be for the use of the said corporation.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the burgess, town council and high constable, and each of them, before entering upon the duties of their respective offices, shall take an oath or affirmation before any justice of the peace of the said county, to support the constitution of the United States and of this state, and to execute the duties of their respective offices with fidelity, and the certificates of such oaths and affirmations shall be filed among the records of the said corporation.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the town council, to meet as often as occasion may require, and enact such by-laws, and make such rules, regulations and ordinances, as shall be determined by a majority of them necessary, to promote the peace, good order, benefit and advantage of said borough, particularly of providing for the regulation of the market, streets, alleys and highways therein; and they shall have power to assess, apportion and appropriate, such taxes as shall be determined by a majority of them necessary for carrying the said rules and ordinances from time to time into complete effect; and also to appoint a town clerk, treasurer, two persons to act as street and road commissioners, and a clerk of the market annually, and such other officers as may be deemed necessary from time to time. Provided, that no by-law, rule or ordinance of the said corporation shall be repugnant to the constitution or laws of the United States or of this commonwealth, and that no person shall be punished for a breach of a by-law or ordinance made as aforesaid, until three weeks have expired after the promulgation thereof, by at least four advertisements set up in the most public places in the said borough. And provided also, that no tax shall be laid in any one year, on the valuation of taxable property exceeding one cent in the dollar, unless some object of general utility shall be thought necessary, in which case a majority of the freeholders of said borough by writing under their hands, shall approve of and certify the same to the town council, who shall proceed to assess the same accordingly.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the burgess elected and qualified agreeably to this act, is hereby authorized and empowered to issue his precept, as often as occasion may require, directed to the high constable, commanding him to collect all taxes assessed, and fines and forfeitures imposed by this act, or by the ordinances or regulations of the corporation, and the same to pay over to the treasurer; and the said burgess is hereby authorized to carry into effect, all by-laws enacted by the council, and whatever else shall be enjoined on him for the well ordering and governing the said borough: He shall have jurisdiction in all disputes between the corporation and individuals, arising under the by-laws.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the town clerk to attend all meetings of the council when assembled upon business of the corporation and perform the duty of clerk thereto, and keep and preserve the common seal and records of the corporation, and be answerable for the same, and also for the faithful discharge of all the duties which may be enjoined upon him by virtue of this act, or of the acts of the corporation, whose attestation with the seal of the corporation, shall be good evidence of the act or thing so certified.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the treasurer shall give security for the faithful discharge of the duties of the office, and for the safe delivery of all moneys, books and accounts appertaining thereto, into the hands of his successor, upon demand made for that purpose.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the street commissioners, treasurer, constable and clerk of the market, as well as all other officers who may be appointed by the corporation or council, shall render their accounts to the council once in every year for settlement, and the said accounts being adjusted and settled accordingly, shall be forthwith published by

the said council, showing particularly the amount of taxes laid and collected, and of the expenditures.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the high constable to give notice of the annual elections of the said borough, by setting up advertisements in the market and three other public places in the said borough, ten days previous thereto; he shall attend and see that the same is opened at the time, and in the manner directed by this act. Provided, that it shall be the duty of the constable residing therein for the time being to publish and superintend the election to be held on the first Monday in May next, as is hereinbefore directed.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the waters of the Falling Spring and Conecocheague creek, passing through the said borough, shall not in the least be obstructed or diverted by the said corporation, but the same shall remain as heretofore.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall think him or themselves aggrieved by anything done in pursuance of this act, he, she, or they may appeal to the next court of quarter sessions, to be held for the proper county, upon giving security according to law to prosecute his, her or their appeal with effect; and the court having taken such order therein as shall seem to them just and reasonable, the same shall be conclusive against all parties.

Approved March 21, 1803. Recorded L. B. No. 9, p. 11.

CHAPTER MMCCCLI.

AN ACT ERECTING CERTAIN ELECTION DISTRICTS IN CUMBERLAND COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of

this act, the township of Tyrone, in Cumberland county, shall be a separate election district, and the electors thereof shall hold their general elections at the schoolhouse in the town of Landisburgh, any former law or laws to the contrary notwithstanding.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the township of Teboyne, in Cumberland county, shall be a separate election district; and the electors thereof shall hold their general elections at the house now occupied by Henry Simmerman in said township, any former law or laws to the contrary notwithstanding.

Approved March 21, 1803. Recorded L. B. No. 9, p. 18.

CHAPTER MMCCCLII.

AN ACT TO ERECT THE TOWNSHIPS OF PENNSBURY, KENNETT, EAST MARLBOROUGH, AND NEWLIN, IN THE COUNTY OF CHESTER, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the townships of Pennsbury, Kennett, East Marlborough and Newlin, in the county of Chester, shall be a separate election district, to be called the ninth district; and the electors thereof shall hold their general elections at the house now occupied by Joseph Pierce, in the township of East Marlborough aforesaid, commonly known by the name of the Red Lion tavern.

Approved March 21, 1803. Recorded L. B. No. 9, p. 19.

CHAPTER MMCCCLIII.

AN ACT TO AUTHORIZE ANY PERSON OR PERSONS OWNING LANDS ADJOINING NAVIGABLE STREAMS OF WATER, DECLARED PUBLIC HIGHWAYS, TO ERECT DAMS UPON SUCH STREAMS, FOR MILLS AND OTHER WATER WORKS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all and every person or persons owning lands adjoining any navigable stream of water, declared by law a public highway, except the rivers Delaware, Lehigh and Schuylkill, be, and they or either of them are hereby authorized to erect a dam or dams, for a mill or mills or other water works upon any such stream of water, adjoining their own lands, and to keep the same in good repair; and also to lead off thereby on his or their own land, so much of the water of such stream as may be necessary for his or their mill, or mills, or other water works. Provided, that the said person or persons, his or their heirs or assigns in erecting the said dam or dams, or keeping them in repair, shall not obstruct or impede the navigation of such stream, or prevent the fish from passing up the same. And provided also, that the person or persons so erecting said dam or dams shall not infringe on or injure the rights and privileges of the owner or possessor of any private property on such stream.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That on complaint made to the judges of the court of quarter sessions of any county of this commonwealth, that any such dam obstructs the navigation or impedes the passage of fish, they shall appoint three commissioners, who shall view such dam and compare it with the provisions of this act, and report to them at their next sessions, the state thereof; and if it shall appear to the said court that an offence has been committed against this act, the court shall direct a bill of indictment to be sent to the

grand jury, and upon prosecution to conviction of such offence, the person or persons so convicted shall be liable to pay a fine not exceeding one hundred dollars, one moiety thereof to the prosecutor, and the other to be applied to the repairing of the roads or highways in the adjoining township or townships; and shall also pay such damages to the person or persons complaining as shall be found by the jury under the direction of the court; and the court shall direct the supervisors of the highway of the adjoining township, forthwith to remove every such artificial obstruction in such manner as to bring the same within the limitations and provisions of this act at the cost of the person so convicted.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That if the owner or owners of any raft, boat or other vessel, or other person having the charge thereof, shall be obstructed or suffer damage, or shall be delayed in his or their passage on any stream within the jurisdiction of this commonwealth, that now is, or hereafter may be declared a public highway, by any dam or dams as aforesaid, or fish dam or any other device whatsoever, made or erected in any stream, which was declared by law to be a public stream or highway, within the jurisdiction of this commonwealth, before the time the damage or obstruction actually happened, it shall be the duty of any justice of the peace of the county in which such dam or dams as aforesaid, or fish dam or other device is or are erected, on application of the owner or owners of the raft, boat or other vessel, or of the person having the charge thereof, to cause the owner of such dam or dams or other device, forthwith to appear before him the said justice; and if on the appearance of the said owner, the parties cannot agree in respect to the damage alleged to be done, or in the choice of referees to determine the same, it shall be the duty of the said justice, forthwith to appoint three disinterested persons, whose duty it shall be to view the injury so sustained, and inquire into the loss occasioned by delay, and make an estimate thereof on oath or affirmation, if such oath or affirmation is required by either of the parties; and it shall be the duty of such justice of the

peace, forthwith to award judgment and issue execution in a summary manner, for the amount, with costs of suit. Provided however, that the said damages so to be recovered do not in the whole exceed the sum of fifty dollars; but if damages shall be alleged to a greater amount than fifty dollars, the same may be sued for and recovered in the court of common pleas of the county wherein the said damages shall have been sustained. And provided also, that appeals shall be allowed from the judgment of the justice of the peace, given for damages as aforesaid, to the court of common pleas as in other cases.

Passed, notwithstanding Governor's veto, March 23. 1803. Recorded in L. B. No. 9, p. 19.

I DO hereby certify, that the bill, entitled "An act to authorise any person or persons owning lands adjoining navigable streams of water, declared public highways, to erect dams upon such streams for mills and other water-works," which has been disapproved by the governor, and returned with his objections to the senate, in which it originated, has been approved of by two-thirds of the senate, agreeably to the directions of the constitution in such case made and provided, and that the foregoing is the act so approved by the senate.

ROBERT WHITEHILL, Speaker
of the Senate.

Attest.

GEORGE BRYAN, C. S.

I DO hereby certify, that the bill, entitled "An act to authorise any person or persons owning lands adjoining navigable streams of water, declared public highways, to erect dams upon such streams for mills and other water-works," which has been disapproved by the governor, and returned with his objections to the senate in which it originated, has been approved of by two thirds of the house of representatives, agreeably to the directions of the constitution in such case made and provided, and that the foregoing is the act so approved by the house of representatives.

SIMON SYNDER, Speaker
of the House of Representatives.

Attest, MATTHEW HUSTON, C. H. R.

CHAPTER MMCCCLIV.

AN ACT FOR ESTABLISHING AND CONFIRMING THE PLACES FOR HOLDING THE COURTS OF JUSTICE, AND FOR ERECTING THE PUBLIC BUILDINGS FOR THE COUNTY OF MERCER.

Whereas in pursuance of an act passed the sixth of April, one thousand eight hundred and two,⁽¹⁾ entitled "An act to establish the places for holding the courts of justice in the counties of Armstrong, Butler and Mercer," it appears that the governor did appoint Isaac Weaver, John Hamilton, Thomas Morton, James Brady and Presly Carr Lane, esquires, commissioners to perform the duties enjoined and required by said act. And whereas, by the report of said commissioners deposited by them in the office of the secretary of the commonwealth, and before the general assembly, it appears that the said commissioners have performed the duties enjoined and required by the said act. In order, therefore, to complete and secure to the people of the said county of Mercer the benefits intended in and by the act aforesaid:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That William M'Mullin, John Findly, and William Mortimore, be, and they are hereby appointed trustees for the county of Mercer; and the said trustees or a majority of them, are hereby authorized and required to survey or cause to be surveyed, two hundred acres of land, situate on the west side of Otter creek, being the same tract or tracts of land on which John Garver, and a part of the tract on which John Pugh has been settled by John Hoge, particularly described and set forth in the report of the commissioners, under the act, entitled "An act to establish the place for holding the courts of justice in the counties of Armstrong, Butler and Mercer⁽¹⁾," and given and granted under an obligation made and executed by John Hoge

to the governor, in trust and to the use of said county of Mercer; and the said trustees or a majority of them, are hereby authorized and required to lay out a convenient lot or lots of land, within the aforesaid two hundred acres, not exceeding five acres, whereon the public buildings for the use of the county of Mercer shall be erected; and the said lot or lots being so laid out the surplus of the said two hundred acres shall be laid out into town lots and out lots, in such manner, and with such streets, not more than one hundred nor less than sixty feet wide, and such lanes and alleys for public uses as the said trustees shall direct; provided not more than eighty square perches, nor less than forty square perches shall be contained in any town lot, nor more than five acres in any out lot; and the said town being so surveyed and laid out, shall be called Mercer, and the streets, lanes and alleys so laid out shall be and remain common highways forever.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the said trustees, to sell by public auction the said town lots and out lots, at such time as they may judge most advantageous to the county, which sale shall be held at the house of John Pugh in the said county; previous to which the said trustees shall advertise the same, three times at least in one or more of the newspapers printed in Pittsburgh, Greensburg, Lancaster and Philadelphia, three months before the day appointed for such sale, and before the advertisements are published as aforesaid, transmit a map or draught of the town lots and out lots to the secretary of the commonwealth, to be deposited in his office; and with the money arising from the sale of the town lots and out lots aforesaid, the trustees shall proceed to erect a court house, jail, and other necessary public buildings for the use of the county of Mercer. Provided, that before said trustees enter on the duties herein enjoined and required of them, they shall demand and receive sufficient deeds, in fee simple, from the aforesaid John Hoge of the above described two hundred acres of land, in trust for the use of the said county of Mercer, agreeably to the

grant of the same heretofore made to the governor by the said John Hoge, and shall procure the same to be recorded in the office for recording of deeds, for Crawford county; and when the said titles shall be so completed, it shall be the duty of the said trustees, and they are hereby authorized and required, to make out and grant sufficient deeds, in fee simple, for the town lots and out lots by them sold in pursuance of this act.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall within two years after the court of quarter sessions of the peace, and board of commissioners shall have been established and opened by law, in and for the said county of Mercer, surrender and convey to the said commissioners, and their successors in office, in trust for the use of said county, all the trust and trusts vested in them, or a majority of them, by this act; and the said commissioners are hereby empowered and required to do and perform all the duties required by this act, and whatever the said trustees may have omitted to do and perform.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall each of them receive one dollar and thirty-three cents for every day they or either of them shall be necessarily employed in performing the duties of the aforesaid trust, which together with all expenses incurred or assistance in laying out lots, streets and alleys, shall be paid by the treasurer of the county of Crawford, by order of the commissioners, out of the county taxes levied and collected within the said county of Mercer.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall as soon as may be, file a return and draft of the survey and their proceedings under and by virtue of this act, in the office of the recorder of deeds in and for the county of Crawford, or in the said office for the county of Mercer, if such office be then and there established by law.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That so much of an act, entitled

"An act to erect certain parts of Allegheny, Westmoreland, Washington and Lycoming counties, into separate counties," passed the twelfth day of March, one thousand eight hundred,⁽²⁾ as authorizes the commissioners therein named, to be trustees for the said county of Mercer, be, and the same is hereby repealed and made void.

Approved March 24, 1803. Recorded L. B. No. 9, p. 23.

Note (1). Chapter 2296; Supra, this volume, p. 146.

Note (2). Chapter 2130; 16 Statutes at Large, p. 454.

CHAPTER MMCCCLV.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY TO MAKE AN ARTIFICIAL ROAD FROM THE RISING SUN TAVERN, THROUGH SHOEMAKERSTOWN, TO THE RED LION ON THE OLD YORK ROAD.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Robert Lollar, Joshua Tyson, John Shoemaker, junior, John Barclay, John Inskeep, John Hart, (druggist) George Rex, Daniel deBeneville and Richard T. Leech, be, and they are hereby appointed commissioners to do and perform the several duties hereinafter mentioned; that is to say, they shall on or before the first day of May next, procure two books, and in each of them enter as follows: "We whose names are hereto subscribed, do promise to pay to the president, managers and company of the Cheltenham and Willow Grove turnpike road, the sum of one hundred dollars for every share of stock in the said company set opposite to our respective names, in such manner and proportions as shall be determined by the said president and managers, in pursuance of an act of the general assembly of this commonwealth, entitled "An act to enable the governor of this commonwealth to incorporate a company for making an artificial road from the Rising Sun tavern, through Shoemakerstown, to the Red Lion on the old York road," witness our hands, the day of , in the year of our Lord, one thousand eight hundred and three;" and shall give

notice in three of the public newspapers in the city of Philadelphia, for one month at least, of the times when, and places where, the said books will be open to receive subscriptions of stock for the said company, at which times and places three of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, which shall be kept open for the purpose, at least four hours in every juridical day, for the space of three days, if three days shall be necessary, and if at the expiration of the said three first days, the said books shall not have five hundred shares therein subscribed, the said commissioners may adjourn from time to time, until the said number of shares shall be subscribed; of which adjournment public notice shall be given in at least two public papers, and when the said subscriptions in the said books shall amount to the number aforesaid, the same shall be closed. Provided always, that every person offering to subscribe in the said books, in his own name or in the name of any other person, shall previously pay to the attending commissioners, fifteen dollars for every share to be subscribed, out of which shall be defrayed the expense attending the taking such subscriptions and other incidental charges, and the remainder shall be deposited in the bank of Pennsylvania for the use of such corporation, as soon as the same shall be organized and the officers chosen as hereinafter mentioned.

Section II. (Section II, P. L.) Be it further enacted by the authority aforesaid, That when forty persons or more shall have subscribed one hundred and fifty shares or more of the said stock, the said commissioners may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals, the names of the subscribers and number of shares subscribed by each subscriber, to the governor of this commonwealth, whereupon he shall by letters patent under his hand and the seal of the state, create and erect the subscribers, and if the said subscription be not full at the time, then also those who shall thereafter subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title, of "The Chelten-

ham and Willow Grove turnpike company;" and by the said name, the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding the said capital stock, and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfill the intent of this act; and of purchasing, taking and holding, to them and their successors and assigns, in fee simple, and for any lesser estate, all such lands, tenements, hereditaments, and estate real and personal, as shall be necessary to them in the prosecution of their works; and of suing and being sued, and of doing all and every other matter and thing, which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners hereinbefore named, shall as soon as conveniently may be, give thirty days notice in three public newspapers in Philadelphia, one whereof shall be in the German language, of the time and place by them appointed, for the said subscribers to meet in order to organize the said corporation, and to choose by a majority of votes, of the said subscribers by ballot, to be delivered in person or by proxy duly authorized, one president, twelve managers, one treasurer, and such other officers as shall be deemed necessary to conduct the business of the said company, until the second Monday in November next, and until like officers shall be chosen; and may make such by-laws, rules, orders and regulations, as do not contravene the constitution and laws of this commonwealth, and may be necessary for the well governing the affairs of the said company. Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the second Monday in November in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such other officers as aforesaid, for the ensuing year in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws, at which annual or special meetings they shall have full power and authority to make, alter or repeal by a majority of votes in manner aforesaid, all such by-laws, rules, orders and regulations made as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, he paying fifteen dollars for each share; which certificate shall be transferable at his pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon, and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the corporation, and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places as shall be ordained by their by-laws, and when met seven members shall form a quorum, and who in the absence of the president may choose a chairman, and shall keep minutes of all their transactions fairly entered in a book, and a quorum being formed, they shall have full power and authority to appoint all such sur-

veyors, engineers, superintendents and other artists and officers as they shall deem necessary to carry on their intended works, and fix their salaries and wages; to ascertain the times when, and manner and proportion in which the stockholders shall pay the moneys due on their respective shares; to draw on the bank of Pennsylvania, for all moneys which shall have been so aforesaid deposited, necessary to pay the salaries or wages of persons by them employed and for the materials. Provided such drafts shall be signed by the president, or in his absence by a majority of a quorum, and countersigned by their treasurer; and generally to do all such other acts, matters and things, as by this act, or by the by-laws, rules, orders and regulations of the company, they shall be authorized to do.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if after thirty days notice in three of the public newspapers, printed in the city of Philadelphia, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or dividend, at the place appointed, for the space of thirty days after the time so appointed, every such stockholder or his assignee shall in addition to the dividends so called for, pay after the rate of five per centum per month for delay of such payment; and if the same and the said additional penalty shall remain unpaid, for such space of time as that the accumulated penalties shall become equal to the sums before paid, in part, and on account of such shares, the same shall be forfeited to the said company, and may and shall be sold to any person or persons willing to purchase, for such price as can be obtained for the same.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the said road shall be made in, over and upon, the bed of the present road; beginning at the new Rising Sun tavern on the Germantown road; thence extending by John Shoemaker's mill to the Red Lion tavern near the fourteen mile stone. Provided always, that no surveyor, superintendent, artist or other person or persons employed by the said company, to lay out the said road,

shall enter upon, or go through any land or lands belonging to any person or persons, without first obtaining permission of the owner or owners thereof.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall cause a road to be laid out of not less than fifty, nor more than sixty feet in width, in such manner as that the present buildings on said road be not injured; and at least twenty-four feet thereof to be made an artificial road, bedded with wood, stone, gravel or any other hard substance well compacted together, and of sufficient depth to secure a solid foundation to the same; and the said road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm and as near as the materials will admit of, an even surface, and so nearly level in its progress, as that it shall in no place rise or fall more than will form an angle of four degrees with an horizontal line; and shall forever hereafter maintain and keep the same in good and perfect order, from the Rising Sun tavern, to the Red Lion tavern on the old York road; and the said president, managers and company, shall have power to erect permanent bridges over all the waters crossing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers and company, shall have perfected the said road, from the Rising Sun tavern the distance of two and a half miles, and also when they shall have completed the next succeeding five miles, likewise when the remainder shall be finished, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three disinterested persons, to view and examine the same, and report to him in writing whether the said road is so far executed in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report shall in either case be in the affirmative, then the governor shall by license under his hand and the lesser seal of this commonwealth, permit and suffer the said president, managers and company, to erect and fix so many gates or turn-

piques upon and across the said road, as will be necessary and sufficient to collect the toll and duties hereinafter granted to the said company, from all persons traveling on the same with horses, cattle, carts and carriages. Provided, that all persons attending funerals or places of worship, their horses and carriages, shall be exempt from the payment of tolls in going to and returning therefrom.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That when the said company is licensed, in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll gatherers as they shall think proper, to collect and receive, of and from all and every person and persons using the said road the tolls and rates hereinafter mentioned; and to stop any person riding, leading or driving any horses, cattle, hogs, sheep, coach, coachee, sulkey, chair, chaise, phaeton, cart, wagon, sleigh, sled or any other carriage of burden or pleasure from passing through the said turnpikes, until they shall respectively have paid the same; that is to say, for every five miles in length of the said road completed and licensed as aforesaid, the following sums of money, and so in proportion for any lesser distance or for any greater or lesser number of sheep, hogs or cattle: For every score of hogs, six cents; for every score of sheep, six cents; for every score of cattle, twelve cents; for every horse and his rider or led horse, three cents; for every sulkey, chair or chaise, with one horse and two wheels, six cents; and with two horses, nine cents; for every chariot, coach, phaeton or chaise with two horses and four wheels, twelve cents; for either of the carriages last mentioned with four horses, twenty cents; for every other carriage of pleasure under whatever name it may go, the like sums according to the number of wheels and horses drawing the same; for every stage wagon with two horses, twelve cents; and for every such wagon with four horses, twenty cents; for every sleigh, three cents for each horse drawing the same; for every cart or wagon whose wheels shall not exceed seven inches, three cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than

seven inches, and not more than ten inches, or being of the breadth of seven inches, shall roll more than ten inches, two cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceeding twelve inches, or being ten inches shall roll more than fifteen inches, one cent for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than twelve inches, one cent for every horse drawing the same; and if any person or persons shall represent to the said company, or any of their officers, that he, she or they have traveled a less distance than he, she or they have actually traveled along the said road, with intent to defraud the said company of its toll or any part thereof, such person or persons shall for every such offence, forfeit and pay to the use of the said company the sum of sixteen dollars; and if any toll gatherer shall demand and receive toll, for a greater distance than the person of whom such toll is demanded shall have traveled along the said turnpike road, or shall demand and receive greater toll from any person or persons than such toll gatherer is authorized to demand and receive by virtue of this act, such toll gatherers shall forfeit and pay the sum of twenty dollars for every such offence, to the use of the poor of the township in which the forfeiture is incurred, and for the payment of which the said company shall be responsible.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That no wagon or other carriage with four wheels, the breadth of which wheels shall not be four inches, shall be drawn along the said road, between the first day of November, and the first day of May following in any year, with a greater weight thereon than two and a half tons, or with more than three tons the residue of the year; that no such carriage, the breadth of whose wheels shall not be seven inches, or being six inches or more, shall not roll at least ten inches, shall be drawn along the said road between the first days of November and May, with more than three and a half tons, or with more than four tons during the residue of the year; that no such carriage, the breadth of whose wheels

shall not be ten inches or more, or being less, shall not roll at least twelve inches, shall be drawn along the said road between the first days of November and May, with more than five tons, or with more than five and a half tons during the residue of the year; that no cart or other carriage with two wheels, the breadth of which shall not be four inches, shall be drawn along the said road with a greater weight thereon than one and a quarter tons, between the said first days of November and May, or with more than one and a half tons during the residue of the year; that no such carriage whose wheels shall not be the breadth of seven inches, shall be drawn along the said road with more than two and a half tons, between the first days of November and May, or with more than three tons during the residue of the year; that no such carriage, whose wheels shall not be of the breadth of ten inches, shall be drawn along the said road between the first days of November and May, with more than three and a half tons, or with more than four tons during the residue of the year; that no greater weight than seven tons shall be drawn along the said road in any carriage whatever, between the said first days of November and May, nor more than eight tons during the residue of the year; that if any cart, wagon or carriage of burden whatsoever, shall be drawn along the said road with a greater weight than is hereby allowed, the owner or owners of such carriage, shall forfeit and pay four times the customary toll to the use of the company. Provided always, that it shall and may be lawful for the said company by their by-laws, to alter any or all of the regulations herein contained, respecting the burdens on carriages to be drawn over the said road, and to substitute other regulations, if upon experience such alterations shall be found conducive to the public good. Provided always, that such regulations shall not lessen the burdens of carriages above described.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That all such carriages as aforesaid, to be drawn by oxen in the whole or partly by horses and partly by oxen, two oxen shall be estimated as equal to one

horse in charging all the aforesaid tolls, and every mule as equal to one horse.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order for the space of five days, and information thereof, shall be given to any justice of the peace of the neighborhood, within the county where the repair ought to be made, such justice shall issue a precept to be directed to any constable, commanding him to summon three disinterested persons to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall be complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto within the said county; and the said justice shall at such time and place on the oaths or affirmations of the said persons, enquire whether the said road or any part thereof is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made under the hands of himself and a majority of the said persons; and if the said road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates shall cease to be demanded, paid or collected, until the said defective part or parts of the said road, shall be put in good and perfect order and repair as aforesaid; and if the same shall not be put in good and perfect order and repair before the next general court of quarter sessions of the peace, to be held for the county in which the defect is proved to be, the aforesaid justices shall certify and send a copy of the inquisition aforesaid to the justices of the said court, and the said justices shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road, as shall be so found defective, and shall proceed thereon as in cases of supervisors

of the highways for neglect of their duty; and if the person or persons entrusted by the said company as aforesaid, shall be convicted of the offence by the said inquisition charged, the said court shall give judgment according to the nature and aggravation of the neglect, as according to right and justice would be proper in the case of supervisors of the highways neglecting their duties; and the fines and penalties so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said court, and shall be paid to the supervisors of the highways of the township wherein the offense was committed, to be applied to repairing the public roads within such township.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whomsoever, owning, riding in, or driving any sulkey, chair or chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, riding or leading any horse, mare or gelding, or driving any hogs, sheep or other cattle, shall therewith pass through any private gate or bars, or along or over any private passage way or other ground, near to or adjoining any turnpike, or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company and avoid the payment of the toll or duty, for passing through any such gate or turnpike; or if any person or persons shall with such intent take off, or cause to be taken off, any horse, mare or gelding or other cattle, from any sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure; or practise any other fraudulent means of device, with the intent that the payment of any such toll or duty may be evaded or lessened, all, and every person or persons in all or every or any of the ways or manners aforesaid offending, shall for every such offence respectively forfeit and pay to the president, managers and company of the Cheltenham and Willow Grove turnpike road, any sum not exceeding ten dollars, to be sued for and recovered with costs of suit, before any justice of the peace in like manner, and subject to the same rules and regulations as debts of a similar amount may be sued for and recovered. Provided

always, that if any person or persons shall be prosecuted under this section of the act, and the said prosecution shall not be sustained on the part of the prosecutors, then and in such case, the person or persons prosecuted as aforesaid, shall receive from the company, the sum of ten dollars in lieu of damages arising from delay and a vexatious prosecution, recoverable as other fines under this act.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company, shall keep fair and just accounts of all moneys received by them from the said commissioners, and from the subscribers to the said undertaking on account of the several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also all moneys by them expended in the prosecution of their said work, and shall once at least in every year, submit such accounts to a general meeting of the stockholders until the said road shall be complete, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or when the capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company at a stated or special meeting to be convened according to the provisions of this act or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the moneys subscribed for such shares, in like manner, and like penalties as are hereinbefore provided for the original subscription, or as shall be provided by their by-laws.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers, and company, shall also keep a just and true ac-

count of all and every of the moneys received by their several and respective gates or turnpikes on the said road, from the beginning to the end thereof; and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the subscribers to the said company's stock; and shall on the first Monday in November and May in every year, publish the half yearly dividend made of the said clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall at the end of every year from the date of the incorporation, until the whole road shall be completed, lay before the general assembly of this commonwealth, an abstract of their accounts, showing the whole amount of capital expended in prosecution of the said work, and of the income and profits arising from the said tolls for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after the said road shall be completed from the beginning to the end thereof, it shall appear from the average profits at the end of the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum, on the whole capital stock of the said company so expended, then it shall and may be lawful for the said president, managers and company, to increase the tolls hereinbefore allowed, so much upon each and every allowance thereof, as will raise the dividend up to six per centum per annum; and at the end of every year after the said road shall be completed, they shall render unto the general assembly a like abstract of their accounts; and if at any time the said clear income and profits thereof shall exceed a dividend of nine per centum per annum, the surplus above that amount when sufficient shall arise, shall be appro-

priated by the said president and managers to the purchase of such share or shares of the said stock, as the money arising from the said surplus as aforesaid will be found adequate to purchase, until all the said shares shall be so purchased; and the said subscribers shall determine by lot from time to time, whose share or shares shall be paid off by the money arising as aforesaid, for which shares the said company shall pay the sums which were originally paid for each respective share; and when the whole number of shares shall be purchased as aforesaid, then the said road shall be free and no toll whatever shall be exacted.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected and continued, at the intersection of every public road falling into and leading out of the said turnpike road, with a board and index hand pointing to the direction of such road, on both sides whereof shall be inscribed in legible characters the name of the town, village or place to which such road leads, and the distance thereof in computed miles.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the said new Rising Sun tavern, and extending thence to the termination of the turnpike aforesaid; whereon shall be marked in plain legible characters, the respective number of miles which each stone is distant from the said tavern; and at every gate or turnpike by them to be fixed on the said road, shall cause the distance from the said tavern and the distance from the nearest gates or turnpikes in each direction, to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates or some other conspicuous place, for the information of travelers and others using the said road; and if any person shall wilfully destroy the said posts, boards, index hands or milestones, or deface the same, or deface the directions made on the said gates or other conspicuous places as aforesaid, or shall without permission of the acting superin-

tendent of the said road, throw out upon the said road or within the limits of the same, and suffer to remain for the space of one day, any mould, dirt, shavings, weeds or rubbish of any kind, such person being convicted thereof, by the evidence of one or more creditable and disinterested witness or witnesses, before any disinterested justice of the peace of the county, he or she shall be adjudged by the said justice to pay a fine not exceeding three dollars, to be recovered with costs as debts under five pounds are by law recoverable; which fine when recovered shall be paid by the said justice to the treasurer of the said company, for the use of said company.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure using the said road, shall except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road, in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars, to any person who shall be obstructed in his passage and will sue for the same, to be recovered with costs before any justice, in the same manner as debts under forty shillings are by law recovered.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if the company shall not proceed to carry on the said work within two years after the passing of this act, or shall not within seven years afterwards complete the said road, according to the true intent and meaning of this act, then in either of those cases all and singular the rights, liberties, privileges and franchises hereby granted to the company shall revert to this commonwealth.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and twenty-five, think proper to take possession of the said road, three persons shall be appointed by the governor, and three by the judges of the supreme court, who are hereby

required to appoint the same, who or any six or more of them not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor of this commonwealth, who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be paid by the state to said company their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.

Approved March 24, 1803. Recorded L. B. No. 9, p. 26.

CHAPTER MMCCCLVI.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD FROM THE INTERSECTION OF FRONT STREET AND THE GERMANTOWN ROAD, IN THE NORTHERN LIBERTIES OF THE CITY OF PHILADELPHIA, THROUGH FRANKFORD AND BRISTOL, TO THE FERRY AT MORRISVILLE, ON THE RIVER DELAWARE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, an it is hereby enacted by the authority of the same, That Joseph Clunn, John M'Elroy, Derick Peterson, Isaac Worrell, Nathan Harper, James C. Fisher, and Richard Gernon, be, and they are hereby appointed commissioners to do and perform the several duties hereinafter mentioned; that is to say, they shall on or before the first day of May next, procure two books, and in each of them enter as follows: "We whose names are hereto subscribed, do promise to pay to the president, managers and company of the Frankford and Bristol turnpike road company, the sum of one hundred dollars for every share of stock in the said company set opposite to our respective names, in such manner and proportions as shall be determined by the said president and managers, in pursuance of an act of the general assembly of this commonwealth, entitled "An act to enable the gov-

ernor of this commonwealth to incorporate a company for making an artificial road from the intersection of Front street and the Germantown road, in the Northern Liberties of the city of Philadelphia, through Frankford and Bristol, to the ferry at Morrisville in the county of Bucks," witness our hands the day of , in the year of our Lord one thousand eight hundred and ;" and shall give notice in three of the public newspapers in the city of Philadelphia, (one whereof shall be in the German language) for one calendar month at least of the times when, and places where the said books will be open to receive subscriptions of stock for the said company; at which times and places three of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, which shall be open for the purpose at least four hours in every juridical day, for the space of three days, if three days shall be necessary; and if at the expiration of the said three first days, the said books shall not have five hundred shares therein subscribed, the said commissioners may adjourn from time to time until the said number of shares shall be subscribed, of which adjournment public notice shall be given in at least two public papers, and when the said subscriptions in the said books shall amount to the number aforesaid, the same shall be closed. Provided always, that every person offering to subscribe in the said books in his own name or in the name of any other person, shall previously pay to the attending commissioners fifteen dollars for every share to be subscribed, out of which shall be defrayed the expense attending the taking such subscriptions and other incidental charges, and the remainder shall be paid over to the bank of Pennsylvania for the use of the company, intended to be incorporated by this act, as soon as the same shall be organized and the officers chosen as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when forty persons or more shall have subscribed two hundred and fifty shares or more of the said stock, the said commissioners may, or when the

whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals the names of the subscribers, and number of shares subscribed by each to the governor of this commonwealth; and thereupon it shall and may be lawful for the governor by letters patent under his hand and the seal of the state, to create and erect the subscribers, and if the said subscription be not full at the time, then also those who shall after subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The president, managers and company, of the Frankford and Bristol turnpike road;" and by the said name, the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding their said capital stock and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act; and of purchasing, taking and holding to them and their successors and assigns, in fee simple, and for any lesser estate, all such lands, tenements, hereditaments and estate real and personal, as shall be necessary to them in the prosecution of their works, and of suing and of being sued, and of doing all and every matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners hereinbefore named, shall as soon as conveniently may be, give thirty days notice in three public newspapers in Philadelphia, one whereof shall be in the German language, of the time and place by them appointed for the said subscribers to meet in order to organize the said corporation, and to choose by a majority of votes of the said subscribers by ballots, to be delivered in person or by proxy duly authorized, one president, twelve managers, one treasurer and such other officers as shall be deemed necessary to conduct the business of the said company, until the second Monday in January next, and until like officers shall be chosen; and may make such by-

laws, rules, orders and regulations as do not contravene the constitution and laws of this commonwealth, and may be necessary for the well governing the affairs of the said company. Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, that the said company shall meet on the second Monday of November in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such other officers as aforesaid, for the ensuing year in manner aforesaid; and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations made as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, he paying fifteen dollars for each share; which certificate shall be transferable at his pleasure in person or by attorney duly authorized, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon; and the assignee holding any certificate having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the corporation, and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, and

of all the estate and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places as shall be ordained by their by-laws; and when met seven members shall form a quorum, and who in the absence of the president may choose a chairman; and shall keep minutes of all their transactions fairly entered in a book; and a quorum being formed they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers, as they shall deem necessary to carry on their intended works, and to fix their salaries and wages; to ascertain the times when, and manner and proportion in which the stockholders shall pay the moneys due on their respective shares, to draw orders on the bank of Pennsylvania for all moneys necessary to pay the salaries or wages of persons by them employed, and for the materials. Provided, said orders shall be signed by the president, or in his absence by a majority of a quorum and countersigned by their clerk; and generally to do all such other acts, matters and things as by this act and by the by-laws, rules, orders and regulations of the company they shall be authorized to do.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder after thirty days notice in three public newspapers printed in the city of Philadelphia, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, shall neglect to pay such proportion or dividend at the place appointed, for the space of thirty days after the time so appointed, every such stockholder or his assignee shall in addition to the dividend so called for, pay after the rate of five per centum per month for every month's delay of such payment after the time first appointed for it to be made; and if the same and the said additional penalties shall remain unpaid for such space of time, as that the accumulated penalties shall become equal to the sums before paid, in part, and on account of such

shares, the same shall be forfeited to the said company, and may and shall be sold to any person or persons for such price as can be obtained for the same.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the said road shall be made in, over and upon the present road, beginning at the intersection of Front street and the Germantown road, and extending through Frankford and Bristol, to the ferry at Morrisville on the river Delaware, in the county of Bucks, as nearly as may be, consistently with economy and utility.

Section IX. And be it further enacted by the authority aforesaid, That the said president, managers and company, shall cause a road to be laid out sixty feet wide; and at least twenty-six feet thereof to be made an artificial road, bedded with wood, stone, gravel or other hard substance well compacted together, and of sufficient depth to secure a solid foundation; and the said road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to form a firm, and as near as the materials will admit of an even surface; and so nearly level in its progress as that it shall in no place rise or fall more than will form an angle of four degrees with an horizontal line; and shall forever hereafter maintain and keep the same in good and perfect order, from the beginning thereof by the route or track aforesaid, to the ferry at Morrisville aforesaid; and the said president, managers and company shall have power to erect permanent bridges over all the waters crossing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the bridge which the said president, managers and company shall erect over Neshaminy creek, shall be so constructed that one part thereof, not less than twenty-four feet shall hoist or draw for the free passage of such masted vessels as shall from time to time have occasion to pass up and down the said creek; and the draw shall be set and placed in such part of the said bridge as will render the passage of masted vessels through the same most easy, safe and convenient; which draw shall be ten feet above the surface of the creek at common tides at time of

high water, and so as to be most conducive to the free navigation of the said Neshaminy creek; and for the accommodation of travelers, as well as the safety of the navigation, a lamp shall be placed by the said president, managers and company on the said bridge near or adjoining where the said draw shall be constructed; which lamp shall be lighted before dark every evening after the building the said bridge, so long as the said bridge shall stand, and continue lighted until daylight in the ensuing morning; and the said president, managers and company, shall give good and faithful attendance by some sufficient person or persons at the draw of the said bridge, and as speedily as the nature of the thing will permit, hoist or raise the said draw for all masted vessels for which a passage through the same may be required, without any toll or exaction whatever therefor; and on neglect or failure of the said president, managers and company to support, maintain and uphold the said bridge when built, and at all times to keep it in good repair, on presentment of the said president, managers and company by the grand inquest, enquiring for the county of Bucks, and conviction thereupon at the general quarter sessions for said county, they shall be fined at the discretion of the said court in any sum not exceeding two hundred dollars.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall for every neglect or failure in lighting or giving attendance at the said draw aforesaid, forfeit and pay the sum of twenty dollars, one moiety to be equally divided between the poor of the township of Bensalem and Bristol, and the other moiety to the party complaining, or who shall sue for the same.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That as soon as the said president, managers and company shall have perfected five miles of the said road, beginning at the intersection of Front street and the Germantown road, and also when they shall have completed each succeeding five miles, they shall give notice thereof to the governor of the commonwealth, who

shall thereupon forthwith nominate and appoint three disinterested and skillful persons to view and examine the same, and report to him in writing whether the same is so far executed in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then and in either case the governor shall be licensed under his hand and the lesser seal of the commonwealth, to permit and suffer the said president managers and company to erect and fix so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons traveling on the same, with horses, cattle, carts and carriages. Provided always, that nothing in this act contained shall authorize the said president, managers and company to erect or fix any gate or turnpike as aforesaid, upon or across the said road, within the bounds of the borough of Frankford or within the bounds of the borough of Bristol. And provided also, that all persons attending funerals or places of worship, their horses and carriages, shall be exempt from the payment of tolls in going to and returning therefrom.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the said company having perfected the said road or such part thereof, from time to time as aforesaid, and the same being examined, approved and licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll gatherers as they think proper to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned; and to stop any person riding, leading or driving any horses, cattle, hogs, sheep, coach, coachee, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or any other carriage of burden or pleasure from passing through the said turnpikes, until they shall respectively have paid the same; that is to say, for every five miles in length of the said road the following sums of money, and so in proportion for any lesser distance, or for any greater or lesser number of sheep, hogs or cattle, to wit: For every score of sheep, six cents;

for every score of hogs, six cents; for every score of cattle, twelve cents; for every horse and his rider or led horse, three cents; for every sulkey, chair or chaise with one horse and two wheels, six cents; for every chariot, coach, phaeton or chaise with two horses and four wheels, twelve and one half cents; for every of the carriages last mentioned with four horses, twenty cents, for every other carriage of pleasure under whatever name it may go, the like sums according to the number of wheels and horses drawing the same; for every stage wagon with two horses, twelve cents; and for every such wagon with four horses, twenty cents; for every sleigh, three cents for each horse drawing the same; and for every sled, two cents for each horse drawing the same; for every cart or wagon whose wheels do not exceed the breadth of four inches, five cents for each horse drawing the same; for every cart or wagon whose wheels shall exceed in breadth four inches, and not exceed seven inches, three cents for every horse drawing the same; for every cart or wagon the breadth of whose wheels shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches shall roll more than ten inches, two cents for every horse drawing the same; for every cart or wagon the breadth of whose wheels shall be more than ten inches and not exceed twelve inches, or being ten shall roll more than fifteen inches, one cent for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than twelve inches, one cent for every horse drawing the same; and if any person or persons shall represent to the said company or any of their officers, that he, she, or they have traveled a less distance than he, she or they have actually traveled along the said road, with intent to defraud the said company of its tolls or any part thereof, such person or persons shall for every such offence forfeit and pay to the use of the said company, any sum not exceeding sixteen dollars; and if any toll gatherer shall demand and receive toll for a greater distance than the person of whom such toll is demanded shall have traveled along the said turnpike road, or shall demand and receive greater toll from any person or

persons, than such toll gatherer is authorized to demand and receive by virtue of this act, such toll gatherer shall forfeit and pay the sum of twenty dollars for every such offence, to the use of the overseers of the poor of the township in which the forfeiture is incurred, and for the payment of which the said company shall be responsible.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That no wagon or other carriage with four wheels, the breadth of which wheels shall not be four inches, shall be drawn along the said road between the first day of November and the first day of May following in any year, with a greater weight thereon than two tons and a half, or with more than three tons the residue of the year; that no such carriage, the breadth of whose wheels shall not be seven inches, or being six inches or more shall not roll at least ten inches, shall be drawn along the said road between the said first days of November and May with more than three tons and a half, or with more than four tons during the residue of the year; that no such carriage, the breadth of whose wheels shall not be ten inches or more, or being less shall not roll at least twelve inches, shall be drawn along the said road between the first days of November and May with more than five tons, or with more than five tons and a half during the residue of the year; that no cart or other carriage with two wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road with a greater weight thereon than one ton and a quarter between the said first days of November and May, or with more than one ton and a half during the residue of the year; that no such carriage whose wheels shall not be the breadth of seven inches, shall be drawn along the said road with more than two tons and a half between the first days of November and May, or with more than three tons the residue of the year; that no such carriage, whose wheels shall not be of the breadth of ten inches, shall be drawn along the said road between the said first days of November and May, with more than three tons and a half, or with more than four tons during the residue of the year; that no greater weight than seven

tons shall be drawn along the said road in any carriage whatever, between the said first days of November and May, nor more than eight tons during the residue of the year; and that if any cart, wagon or carriage of burden whatsoever, shall be drawn along the said road with a greater weight than is hereby allowed, the owner or owners of such carriage shall forfeit and pay four times the customary toll to the use of the said company. Provided always, that it shall and may be lawful for the said company by their by-laws, to alter any or all of the regulations herein contained respecting the burdens on carriage to be drawn over the said road, and to substitute other regulations if upon experience such alterations shall be found conducive to the public good. Provided always, that such regulations shall not lessen the burdens of carriages above described.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That all such carriages as aforesaid, to be drawn by oxen in the whole or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse in charging all the aforesaid tolls, and every mule as equal to one horse.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order for the space of five days, and information thereof shall be given to any justice of the peace of the neighborhood, such justice shall issue a precept to be directed to any constable, commanding him to summon three disinterested freeholders to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall be complained of; of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall at such time and place, by the oaths or affirmations of the said freeholders, enquire whether the said road or any part thereof is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made under the hands of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be

out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates for passing the interval of road between them shall cease to be demanded, paid or collected until the said defective part or parts of the said road shall be put in good and perfect order and repair as aforesaid; and if the same shall not be so put into good and perfect order and repair before the next general court of quarter sessions of the peace, to be held for the counties of Philadelphia or Bucks, the aforesaid justices shall certify and send a copy of the inquisition aforesaid to the justices of the said court; and the said justices shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company, with the care and superintendence of such part of the said road as shall be found defective, and shall proceed upon such inquisition in the same manner and form, as upon indictments found by the grand inquest for the body of the county, against supervisors of the highways for neglect of their duty; and if the person or persons entrusted by the said company as aforesaid shall be convicted of the offence by the said inquisition charged, the said court shall give such judgment according to the nature and aggravation of the neglect, as according to right and justice would be proper in the case of supervisors of the highways neglecting their duties; and the fines and penalties so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said court, and shall be paid to the supervisors of the highways of the township wherein the offence was committed, to be applied to repairing such highways as the township or county is bound to maintain and repair at the public expense thereof.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whosoever, owning, riding in, or driving, any sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or

other carriage of burden or pleasure, or owning, riding, leading or driving any horse, mare, gelding, hog, sheep, or other cattle, shall therewith pass through any private gate or bars, or along or over any private passage way or other ground near to or adjoining any turnpike or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company and avoid the payment of the toll or duty for passing through any such gate or turnpike; or if any person or persons shall with such intent take off, or cause to be taken off, any horse, mare or gelding, or other cattle, from any sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure; or practise any other fraudulent means or device with the intent that the payment of any such toll or duty may be evaded or lessened, all and every person or persons, in all or every or any of the ways or manners aforesaid offending shall for every such offence respectively, forfeit and pay to the president, managers and company of the Frankford and Bristol turnpike road, any sum not exceeding ten dollars; to be sued for and recovered with costs of suit, before any justice of the peace, in like manner, and subject to the rules and regulations as debts under twenty pounds may be sued for and recovered.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company, shall keep fair and just accounts of all moneys received by them from the said commissioners, and from the subscribers to the said undertaking, on account of the several subscriptions, of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid; and also all moneys by them expended in the prosecution of their said work; and shall once at least in every year, submit such accounts to a general meeting of the stockholders until the said road shall be completed, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation or whenever the capital stock of the said company shall be

nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work; and to receive and demand the moneys subscribed for such shares, in like manner, and under the like penalties, as are hereinbefore provided for the original subscriptions or as shall be provided by their by-laws.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company shall also keep a just and true account of all and every the moneys received by them, and make and declare a dividend of the clear profits and income thereof among all the subscribers to the said company's stock, all contingent costs and charges being first deducted; and shall on the first Monday in November and May in every year, publish the half yearly dividend to be made of the said clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall at the end of every year, from the date of the incorporation until the whole road shall be completed, lay before the general assembly of this commonwealth, an abstract of their accounts, showing the whole amount of capital expended in prosecution of the said work, of the income and profits arising from the said tolls for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after the said road shall be completed from the beginning to the end thereof, it shall appear from the average profits at the end of the

said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum, on the whole capital stock of the said company so expended, then it shall and may be lawful to and for the said president, managers and company to increase the tolls hereinabove allowed, so much upon each and every allowance thereof as will raise the dividend up to six per centum per annum; and at the end of every year after the said road shall be completed they shall render the general assembly a like abstract of their accounts; and if at any time the said clear income and profits thereof shall exceed a dividend of nine per centum per annum, the surplus above that amount when sufficient shall arise, shall be appropriated by the said president and managers to the purchase of such share or shares of the said stock, as the money arising from the said surplus will be found adequate to purchase, until all the said shares shall be so purchased; and the said subscribers shall determine by lot from time to time whose share or shares shall be paid off by the money arising as aforesaid, for which shares the said company shall pay the sums which were originally paid for each respective share; and when the whole number of shares shall be purchased, then the said road shall be free.

Section XXI. Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected at the intersection of every [public] road falling into and leading out of the said turnpike road, with a board and index hand pointing to the direction of such road, on both sides whereof shall be inscribed in legible characters, the name of the town, village or place to which such road leads, and the distance thereof in computed miles.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the intersection of Front street and the Germantown road, and extending thence to the termination of the turnpike aforesaid, whereon shall be marked in plain legible characters, the respective number of miles which each stone is distant from the com-

mencement of the said turnpike road; and at every gate or turnpike by them to be fixed on the said road shall cause the distance from Philadelphia, and the distance from the nearest gates or turnpikes in each direction to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates or some other conspicuous place, for the information of travelers and others using the said road; and if any person shall wilfully destroy the said posts, boards, index hands or milestones or deface the same, or deface the directions made on the said gates or other conspicuous places as aforesaid, or shall without permission of the acting superintendent of the said road, throw out upon the road or within the limits of the same, and suffer to remain for the space of one day, any mould, dirt, shavings, weeds or rubbish of any kind, such person being convicted thereof by the evidence of one or more credible and disinterested witnesses, before any disinterested justice of the peace of the county, he or she shall be adjudged by the said justice to pay a fine not exceeding five dollars; to be recovered with costs as debts under forty shillings are by law recoverable; which fine when recovered shall be paid by the said justice to the treasurer of the said company, for the use of said company.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That all wagoners and drivers of carriages of all kinds whether of burden or pleasure using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriage on the right hand side of the said road in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass; and if any driver shall offend against this provision he shall forfeit and pay any sum not exceeding two dollars, to any person who shall be obstructed in his passage and will sue for the same, to be recovered with costs before any justice in the [same] manner as debts under forty shillings are by law recoverable.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the company shall

not proceed to carry on the said work within two years after the passing of this act; or shall not within ten years afterwards complete the said road according to the true intent and meaning of this act, then in either of those cases all and singular the rights, liberties, privileges and franchises hereby granted to the company shall revert to this commonwealth.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and twenty, think proper to take possession of the said road, three persons shall be chosen by the governor of the commonwealth, and three by the president and managers of the said company, and three by the judges of the supreme court, who or any six or more of them shall proceed to examine and estimate the value of the property, which the said company have therein, and certify the amount thereof to the governor, who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be paid, the right of the said company to take toll on the said road, together with all their right, title, claim and interest therein shall cease and determine.

Approved March 24, 1803. Recorded L. B. No. 9, p. 42.

CHAPTER MMCCCLVII.

AN ACT TO AUTHORIZE THE SEVERAL COURTS OF QUARTER SESSIONS WITHIN THEIR RESPECTIVE COUNTIES, TO LAY OFF, ALTER AND DIVIDE TOWNSHIPS, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the several courts of quarter sessions of the peace of the commonwealth of Pennsylvania, in their respective counties, shall from and after the passing of this act, have authority upon application by petition to them made, to erect new townships, to divide any township

already erected, or to alter the lines of any two or more adjoining townships so as to suit the convenience of the inhabitants thereof; and the said several courts in their respective counties upon application so as aforesaid made to them, are hereby authorized and required to appoint three impartial men if necessary to enquire into the propriety of granting the prayer of the petition; and it shall be the duty of said men so appointed, or any two of them, to make a plot or draft of the township proposed to be divided, and the division line proposed to be made therein or of the township proposed to be laid off, or of the lines proposed to be altered of any two or more adjoining townships as the case may be, if the same cannot be fully designated by natural lines or boundaries; all which they or any two of them shall report to the next court of quarter sessions, together with their opinion of the same; and at the court after that to which the report shall be so made, the court shall confirm or set aside the same as to them shall appear just and reasonable.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That if the last legal place of settlement of any person or persons under the poor laws of this commonwealth, now is or hereafter shall be in any township divided by virtue of this act, and such person or persons shall become chargeable after the division thereof, he, she or they shall be supported by that township within the territory of which he, she or they resided at the time of gaining the settlement.

Approved March 24, 1803. Recorded L. B. No. 9, p. 61.

CHAPTER MMCCCLVIII.

AN ACT TO ENABLE THE GOVERNOR TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD, BEGINNING AT OR NEAR DOWNTOWN, IN THE COUNTY OF CHESTER, TO CORNWALL FURNACE, IN THE COUNTY OF DAUPHIN, AND FROM THENCE TO THE BOROUGH OF HARRISBURG.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by

the authority of the same, That Richard Thomas, Matthew Stanly and James M'Connel, of Chester county; Cyrus Jacobs, Jacob Keller and John Erb, of Lancaster county; Moses Gilmore, John Elder and Gotlieb Orth, of Dauphin county; be, and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned; that is to say, they shall on or before the first Monday in May next, procure three books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president, managers and company of the Downingtown, Ephrata and Harrisburg turnpike road, the sum of one hundred dollars for every share of stock in the said company set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers of the said company, in pursuance of an act of the general assembly, entitled "An act to enable the governor to incorporate a company for making an artificial road, beginning at or near Downingtown, in the county of Chester, to Cornwall furnace, in the county of Dauphin, and from thence to the borough of Harrisburg, witness our hands the day of _____, in the year of our Lord one thousand eight hundred and three;" and shall thereupon give notice in two of the public newspapers printed in the city of Philadelphia, and in one or more of the public papers printed in the borough of Lancaster, and in one or more of the public papers printed in Harrisburg, respectively for one calendar month at least, of the times and places in the said city, town and borough respectively, when and where the said books shall be open to receive subscriptions for the stock of the said company, at which respective times and places some two of the said commissioners shall attend, and shall permit and suffer all persons of lawful age who shall offer to subscribe in the said books, in their own names or in the name or names of any other persons, who shall duly authorize the same, for any number of shares in the said stock; and the said books shall be kept open respectively for the purpose aforesaid, at least six hours in every juridical day, for the space of six days; or until the said book opened

at Downingtown shall have seven hundred shares therein subscribed, and the said book opened at Ephrata seven hundred shares therein subscribed, and the said book opened at Harrisburg four hundred shares therein subscribed; and if at the expiration of the said six days, the books aforesaid or any of them shall not have the respective number of shares as aforesaid therein subscribed, the said commissioners respectively may adjourn from time to time, and transfer the said books from place to place aforesaid, until the whole number of shares shall be subscribed; of which adjournments and transfers the commissioners aforesaid shall give such public notice as the occasion may require; and when the whole number of shares subscribed in all the said books shall amount to eighteen hundred the same shall be closed. Provided always, that every person offering to subscribe in the said books in his own name or in any other name, shall previously pay to the attending commissioners the sum of ten dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when sixty persons or more shall have subscribed six hundred or more shares of the said stock, the said commissioners respectively may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals the names of the subscribers, and the number of shares subscribed by each to the governor of this commonwealth; and thereupon it shall and may be lawful for the governor by letters patent under his hand and the seal of the state to create and erect the subscribers, and if the said subscriptions be not full at the time, then also those who shall afterwards subscribe to the number aforesaid into one body politic and corporate, in deed and in law, by the name, style and title, of "The president,

managers and company of the Downingtown, Ephrata and Harrisburg turnpike road;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding their said capital stock and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act; and of purchasing, taking and holding to them and their successors and assigns, and of selling, transferring and conveying in fee simple, or for any lesser estate, all such lands, tenements, hereditaments, and estate real and personal as shall be necessary to them in the prosecution of their works, and of suing and of being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners aforesaid as soon as conveniently may be, after the said letters patent shall be sealed and obtained, shall give notice in two of the public papers in Philadelphia, and in one or more of the public papers printed at Lancaster, and in one or more of the public papers printed at Harrisburg respectively, of a time and place by them to be appointed, not less than twenty days from the publication of the first notice, at which time and place the said subscribers shall proceed to organize the said corporation; and shall choose by a majority of votes of the said subscribers by ballot, to be delivered in person or by proxy duly authorized, one president, twelve managers, one treasurer, and such other officers as they shall think necessary to conduct the business of the said company for one year, and until other such officers shall be chosen; and shall and may make such by-laws, rules, orders and regulations not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for the well ordering the affairs of the said company. Provided always, that no person shall have more than five votes at any election, or in

determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number. Provided nevertheless, that all future annual elections of the said corporation shall be held with such notice and in manner and form aforesaid, alternately at Downingtown, Ephrata and Harrisburg.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday of January in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing officers as aforesaid for the ensuing year in manner aforesaid; and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings they shall have full power and authority to make, alter or repeal by a majority of votes in manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first to be chosen as aforesaid, shall procure certificates to be written or printed for the shares of the stock of said company, and shall deliver one certificate signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for the shares by him subscribed and held, he paying to the treasurer in part of the sum due thereupon, the sum of ten dollars for each share; which certificate shall be transferable at his pleasure in person or by attorney, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon; and the assignee holding any certificate having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the corporation, and for every share by him held shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places, and be convened in such manner as shall be agreed on for transacting their business; at which meetings seven members shall form a quorum, who in the absence of the president may choose a chairman, and shall keep minutes of all their transactions fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with and appoint all such surveyors, superintendents, artists and officers as they shall judge necessary to carry on the intended works, and to fix their salaries or wages; to ascertain the times, manner and proportions, when and in which the stockholders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer for all moneys necessary to pay the salaries or wages of persons by them employed, and for the labor done and materials provided in the prosecution of the work, which orders shall be entered or registered in their book of minutes, and shall be signed by the president or in his absence by a majority of a quorum, and countersigned by their secretary; and generally to do all such other acts, matters and things as by the by-laws, rules, orders and regulations of the company shall be committed to them.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder whether original subscriber or assignee, after thirty days notice in two of the public papers printed in the city of Philadelphia, and in one or more of the public papers printed at Lancaster, and in one or more of the public papers printed in Harrisburg respectively, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, shall neglect to pay such proportion at the place appointed for the payment thereof, every such stockholder shall in addition to the instalment so called for pay at the rate of five per centum per month for every delay of such payment; and if the same and the said additional penalty shall remain unpaid for such

space of time, as that the accumulated penalty shall become equal to the sums before paid, in part, and on account of such share, the same may be forfeited by and to the said company, and may be sold by them to any person or persons willing to purchase for such price as can be obtained therefor; or in default of payment by any stockholder of any such instalment as aforesaid, for the space of sixty days as aforesaid, the said president and managers may at their election cause suit to be brought in any court having competent jurisdiction for the recovery of the same, together with the penalty aforesaid. Provided always, that the recovery in any such suit shall in no case exceed the amount of such instalment or instalments as may be due on such share, together with such accumulated penalty at the rate aforesaid, as shall equal the sums before paid on the same share. And provided also, that no stockholder whether original subscriber or assignee shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable as aforesaid on the share or shares by him held at the time of such election, or general or special meeting of the said company shall have been fully paid and discharged as aforesaid.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, their superintendents, surveyors, engineers, artists and chain bearers, to enter into and upon all and every the lands, tenements and inclosures in, through and over which the said intended turnpike road may be thought proper to pass; and to examine the ground most proper for the purpose, and the quarries, beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road; and to survey, lay down, ascertain, mark and fix such route or track for the same road, as in the best of their judgment and skill will combine shortness of distance, with the most practicable ground from the Philadelphia and Lancaster turnpike road, beginning at or within six miles of Downingtown, at such place as the president, managers and company

may judge most advisable; thence by Ephrata to Cornwall furnace, and from thence to the borough of Harrisburg.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, by and with their superintendents, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, wains and other carriages, and beasts of draught or burden, to enter upon the lands, in, over, contiguous and near to which the route and track of the said intended road shall pass; first giving notice of their intention to the owners or occupiers thereof, and doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement if they can agree, or if they cannot agree, then upon an appraisement to be made upon oath or affirmation by three indifferent freeholders or any two of them, mutually to be chosen; or if the owners upon due notice shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of either of the counties of Chester, Lancaster or Dauphin not interested therein; and upon tender of the appraised value, to dig, take, and carry away, any stone, gravel, sand, earth or other material there being most conveniently situated for making or repairing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company shall have power to erect permanent bridges, over all the waters crossed by said route or track wherever the same shall be found necessary; and shall cause a road to be laid out not exceeding fifty feet in width, from the Philadelphia and Lancaster turnpike road as aforesaid, to the borough of Harrisburg aforesaid; unless in such places where the nature of the ground may render a greater width expedient, and then only with the consent of the owners of the contiguous land; and shall cause twenty-one feet thereof in breadth at least to be made an artificial road, which shall be bedded with wood, stone, gravel or other proper and con-

venient materials well compacted together, a sufficient depth to secure a solid foundation for the same; and the said artificial road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm and as nearly as the nature of the country and the materials will admit, an even surface, rising towards the middle by a gradual arch, and shall forever hereafter maintain and keep the same in perfect order and repair.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers and company shall have perfected the said road, from the Philadelphia and Lancaster turnpike road as aforesaid to the borough of Harrisburg, and so from time to time any distance not less than ten miles progressively towards the borough of Harrisburg aforesaid, they shall give notice thereof to the governor of the commonwealth; who shall thereupon forthwith nominate and appoint three skillful and judicious persons to view and examine the same, and report to him whether the road is so far executed in a competent and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall by license under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers and company to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons traveling on the same with horses and carriages. Provided that persons going to, or returning from public worship on the Sabbath day, and persons attending funerals whether on horseback or with carriages, shall pass and repass free from tolls.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said company having perfected the said road, or such part thereof from time to time as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll gatherers as they

shall think proper, to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned; and to stop any person riding, leading or driving any horse, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, from passing through the said gates or turnpikes until they shall respectively have paid the same; that is to say, for every space of five miles in length of the said road the following sums of money, and so in proportion for any greater or lesser distance; for every horse or mule laden or unladen with his rider or leader, three cents; for every sulkey, chair, chaise with one horse and two wheels, six cents; and with two horses, nine cents; for every chair, coach, phaeton, chaise, stage-wagon, coachee or light-wagon with two horses and four wheels, twelve and a half cents; for either of the carriages last mentioned with four horses, twenty cents; for every other carriage of pleasure under whatever name it may go, the like sums according to the number of wheels and of horses drawing the same; for every sleigh or sled, two cents, for each horse drawing the same; for every cart or wagon or other carriage of burden, whose wheels do not in breadth exceed four inches, four cents for every horse drawing the same; for every cart or wagon, whose wheels shall exceed in breadth four inches and shall not exceed seven inches, three cents for each horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches and not more than ten inches, or being of the breadth of seven inches shall roll more than ten inches, two cents for each horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches and not exceed twelve inches, or being ten inches shall roll more than fifteen inches, one cent and a half for each horse drawing the same; and for any such carriage the breadth of whose wheels shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage aforesaid shall be drawn by oxen or mules in whole or in part, two oxen shall be estimated

equal to one horse, and every ass or mule as equal to one horse in charging the aforesaid tolls.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons owning, riding in or driving any carriage of burden or pleasure as aforesaid, or owning, riding, leading or driving any horse or mule as aforesaid, shall with an intent to defraud the said company, or to evade the payment of any of the tolls or duties aforesaid, pass therewith through any private gate or bar, or along or over any private passage way or along or over any other ground or land near to or adjoining any turnpike or gate which shall be erected in pursuance of this act; or if any person or persons shall with the intent aforesaid, take off or cause to be taken off, any horse, or other beast, or cattle of draught or burden from any carriage of burden or pleasure; or shall practice any other fraudulent means or device with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending in manner aforesaid shall for every such offence respectively, forfeit and pay to the president, managers and company any sum not exceeding fifteen dollars; to be sued for and recovered with costs of suit, before any justice of the peace, in like manner and subject to the same rules and regulations as debts under twenty pounds may be sued for and recovered.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order and repair for the space of fifteen days, and information thereof shall be given to any justice of the peace of the proper county, such justice shall issue a precept to be directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place complained of in the said road; of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall at such time and place by the oaths or affirmations of the said freeholders, enquire whether the said road or any part

thereof is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made under the hands and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair according to the true intent and meaning of this act, he shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates for the intermediate distance between them shall cease to be demanded, paid or collected until the said defective part or parts of the said road shall be put into good and perfect order and repair as aforesaid; and if any of the keepers of the gates aforesaid, shall take or attempt to exact tolls for the intermediate distance aforesaid, such keeper shall forfeit and pay to the use of the person prosecuting for the same the sum of five dollars, to be recovered as debts under forty shillings are by law recoverable; but if the same shall not be put into good and perfect order and repair, before the next ensuing court of quarter sessions of the proper county, the said justice shall certify and send a copy of the said inquisition to the justices of the said court; and the said court shall thereupon cause process to issue, and bring in the bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be found defective as aforesaid; and shall direct a bill of indictment to be sent to the grand inquest against the person or persons entrusted as aforesaid, and upon conviction shall give such judgment according to the nature and aggravation of the neglect as the said court in their discretion shall judge proper: Provided, the fine in no instance shall be less than ten dollars, nor exceeding one hundred dollars; and the fines so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said counties; and shall be paid to the supervisors of the highways of the place where the offence was committed, to be applied to repairing

such highways as the township or county is bound to repair at the public expense thereof.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company, shall keep fair and just accounts of all monies which shall be recieved by them from the said commissioners, and from the subscribers for the stock of the said company on account of their several subscriptions, and of all penalties for the delay in the payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also all monies by them to be expended in the prosecution of their said work; and shall once at least in every year submit such accounts to a general meeting of the stockholders until the said road shall be completed, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged; and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company at a stated or special meeting to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work; and to demand and receive the monies subscribed for such shares in like manner, and under the like penalties as are hereinbefore provided for the original subscriptions, or as shall be provided by their by-laws.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company shall also keep a just and true account of all the monies to be received by their several and respective collectors of tolls, at the several gates or turn-pikes on the said road from the beginning to the end thereof, or such part thereof as shall from time to time be completed, as aforesaid; and shall after the said road is completed, or

so much thereof as it may from time to time be deemed expedient to make and finish, make and declare a dividend of the clear profits and income thereof, all contingent costs, and charges and a reasonable fund for repairs and for the progressive improvement and accomplishment of the said work, being first deducted and reserved, among all the subscribers to the stock of the said company; and shall on the first Monday in February and August in every year, publish the half-yearly dividend to be made of the clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the general assembly of this commonwealth, an abstract of their accounts; showing the amount of their capital expended in prosecution of the said work, and of the income and profits arising from the said toll for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be known and ascertained; and if at the end of two years after the said road shall be completed from the beginning to the end thereof, it shall appear from the average profits of the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum, on the whole capital stock of the said company so expended, and on the interest accrued on such expenditure during the time wherein the work shall have been prosecuting before the receipt of toll, then it shall and may be lawful for the said president, managers and company to increase the tolls hereinbefore allowed according to such rate upon the same as will raise the dividend up to six per centum per annum as aforesaid; and at the end of every ten years after the said road shall be fully completed as aforesaid, they

shall render to the general assembly a like abstract of their accounts for the three preceding years; and if at the end of any such decennial period it shall appear from such abstract, that the clear profits and income of the said company will bear a dividend of more than nine per centum per annum, the surplus above that amount when sufficient which shall arise, shall be appropriated by the said president and managers to the purchase of such share or shares of the said stock, as the said overplus will from time to time be found adequate to purchase, until all the said shares shall be purchased; and the subscribers shall determine by lot from time to time, whose share or shares shall be paid off by the money arising as aforesaid; for which shares the said company shall pay the sums which were originally paid for each respective share; and when the whole number of shares shall be purchased as aforesaid, then the said road shall be free and no toll whatever exacted.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected at the intersection of every public road falling into and leading out of the said turnpike road, with boards and an index-hand pointing to the direction of such road, on both sides whereof, shall be inscribed in legible characters the name of the town or place to which such road leads, and the distance thereof in computed miles; and shall also cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the junction of this road with that of the Philadelphia and Lancaster turnpike, and extending thence to the borough of Harrisburg; whereon shall be marked in plain, legible characters, the respective number of miles which each stone is distant from the said turnpike and from the city of Philadelphia; and at every gate or turnpike by them to be erected on the said road, shall cause the distances from the turnpike road aforesaid, and the distances from the nearest gate or turnpike in each direction, to be marked in legible characters designating the number of miles and fractions of a mile, on the said gates or some other conspicuous place near thereto;

and also shall cause to be affixed at such places a printed list of the rates or toll which from time to time may lawfully be demanded, for the information of travelers and others using the said road.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall wilfully break, deface, pull up or prostrate any milestones, which shall be placed in pursuance of this act on the side of the said road, or shall obliterate the letters or figures inscribed thereon, and if any person or persons shall wilfully break, pull down, deface, destroy or injure any direction-post which shall be erected in pursuance of this act at the intersection of any road as aforesaid, or the board or index-hand affixed thereto in conformity with the directions of this act, or if any person or persons shall obliterate the letters or figures inscribed or marked thereon, or if any person or persons shall destroy, deface or obliterate the letters, figures or other characters, marked at any turnpike or gate, which shall be erected in pursuance of this act for all or any of the purposes therein mentioned, or the whole or any part of any printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this act at any such gate or turnpike, he or they so offending in the premises shall, and each of them shall for every such offence severally and respectively, forfeit and pay to the said president, managers and company any sum not exceeding twenty dollars; to be sued for and recovered with costs of suit before any justice of the peace in manner aforesaid.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That all wagoners, carters and drivers of carriages of all kinds whether of burden or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriage on the right hand side of the said road in the passing direction, leaving the other side of the said road free and clear for other carriages to pass and repass; and if any wagoner, carter or driver shall offend against this provision he shall forfeit and pay any sum not exceed-

ing ten dollars, to any person who shall by reason thereof be obstructed in his passage and will sue for the same before any justice of the peace, to be recovered with costs in like manner as aforesaid.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That if any toll-gatherer on the said road shall demand and receive from any person or persons using the said road, any greater or higher rate of toll than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offence; one-half to the use of the overseers or directors of the poor of the township or county, the other half to the use of the person or persons suing for the same, to be recovered before any justice of the peace of the county in which the forfeiture shall be incurred.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if in the case of any suit or prosecution which shall be commenced under the directions of this act, for any penalty incurred by the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice before whom such suit or prosecution shall be depending, such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall by such justice be deemed a reasonable retribution for the vexation of such suit or prosecution.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That no suit or action shall be brought or prosecuted by any person or persons for any penalty incurred under this act unless such suit or action shall be commenced within six months next after the fact committed; and the defendant or defendants in such suit or action may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall not proceed to carry on the said work within three years after the passing of this act, or shall not within seven years thereafter complete the said road, according to the true intent and meaning of this act, then in either of those cases it shall and may be lawful for the legislature of the commonwealth, to resume all and singular, the rights, liberties, privileges and franchises by this act granted to the said company.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and twenty, think proper to take possession of the said road, three persons shall be chosen by the governor of the commonwealth, and three by the president and managers of the said company, and three by the judges of the supreme court, who or any six or more of them shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor; who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be paid, the right of the said company to take toll on the said road, together with all their right, title, claim and interest therein shall cease and determine.

Approved 24th March, 1803. Recorded in L. B. No. IX, p. 62.

CHAPTER MMCCCLIX.

AN ACT FOR THE RELIEF OF DICKINSON COLLEGE.

Whereas the building erected for the accommodation of the students at Dickinson college at Carlisle, in the county of Cumberland, has been lately destroyed by accidental fire, and the board of trustees thereof has prayed the aid of the legislature to enable them to rebuild the same; but at the same time that the legislature is desirous to promote the advance-

ment of science and literature, the funds of the commonwealth will not at present justify an absolute grant of money; yet it is expedient to aid the said institution so far as may be consistent with the public interest: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That as soon as the corporation of the said college shall in due form of law, have mortgaged ten thousand acres of land heretofore granted by the commonwealth to the said college, to the governor of the said commonwealth, for the securing the repayment of the monies hereby directed to be advanced, in seven years from and after the passing of this act; and upon the certificate of the secretary of the commonwealth that such mortgage so duly executed and approved by the governor, is deposited in his office, (which shall be valid and effectual in law, without further recording thereof); it shall and may be lawful for the treasurer of the county of Cumberland, to pay and advance to the president of the board of trustees, he giving his receipt for the same, the sum of six thousand dollars out of the arrears of state-taxes due from the county of Cumberland; which payment shall be allowed to the said treasurer on his producing the receipts for the same, in his settlement with the treasurer of the commonwealth: Provided always, that the said sum of money hereby loaned to the said institution, shall not bear interest for two years from and after the passing of this act.

Approved March 24, 1803. Recorded in L. B. No. IX, p. 83.

CHAPTER MMCCCLX.

AN ACT TO AUTHORIZE THE COMMISSIONERS OF MONTGOMERY COUNTY AND THEIR SUCCESSORS IN OFFICE, TO RAISE MONEY BY TOLL FOR PAYING A PART OF THE EXPENSES OF ERECTING A BRIDGE OVER MANATAWNY CREEK, NEAR POTTS GROVE, ON THE ROAD LEADING FROM PHILADELPHIA TO READING.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be lawful for the commissioners of the county of Montgomery for the time being, and their successors in office, to demand and receive from travelers and others, toll for passing through the gate hereinafter authorized to be erected across the said road, near the bridge over Manatawny creek in the said county of Montgomery, on the road leading from Philadelphia to the borough of Reading; and to stop any person or persons from passing through the said gate, until they shall respectively have paid the same according to the following rates, viz. For every score of sheep, ten cents; for every score of hogs, ten cents; for every score of cattle, twenty cents; and so in proportion for any greater or less number; for every horse or mule, four cents; for every rider and the horse, six and one fourth cents; for every sulkey, chair or chaise with one horse and two wheels, twelve and a half cents; for every chariot, coach, phaeton or chaise with two horses and four wheels, twenty-five cents; for either of the last mentioned carriages with four horses, thirty-seven and a half cents; and for every other carriage of pleasure under whatever name, the like sum according to the number of wheels and of the horses drawing the same; for every stage wagon with two horses, twenty cents; for every such wagon with four horses, thirty cents; for every sleigh, six and a quarter cents for every horse drawing the same; for every sled, five cents for every horse drawing the same; and for every wagon or cart, six and a quarter cents for every horse drawing the same; and in all cases two oxen shall be estimated equal to one horse: Provided always nevertheless, that any person or persons going to and returning from public worship on Sabbath days, and those who attend funerals, shall at all times be exempted from paying said toll: And provided also, That nothing in this act contained, shall be construed to prevent the said commissioners from contracting with any person or persons desirous of using the said bridge, for an annual sum in lieu of the toll herein before mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That to facilitate the collection of the said tolls, it shall and may be lawful for the said commissioners to erect a gate near or contiguous to the said bridge, and to alter or remove the same as occasion may require; and also to appoint such and so many persons as they may think proper, to attend the said gate and receive toll from travelers and others according to the rates aforesaid.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That if any toll-gatherer shall demand or receive any other or greater rates or prices, for passage over the said bridge, than are herein before specified, the person so offending shall for every such offence forfeit and pay the sum of twenty dollars, one moiety to the commissioners aforesaid towards defraying the expense of the said bridge, and the other moiety to the party complaining or who may sue for the same; to be recovered before any justice of the peace of the said county, who is hereby empowered on information made to him on oath or affirmation of any such offence, to issue his summons or warrant to any constable of the county, commanding him to bring or cause every person against whom such information shall be made to come before him; and on due proof of such offence to convict such person thereof; and to issue his warrant to any such constable, to levy the said sum of money on the goods and chattels of the offender, by distress and sale thereof; and in case no goods or chattels of the offender can be found on which to make such distress, then to take his body and commit him to the jail of the aforesaid county, until the said sum be paid: Provided always, that any person so convicted who shall find himself aggrieved thereby, may within ten days after such conviction, appeal to the next court of quarter sessions of the county; which appeal, on giving security before the said justice by one or more sufficient sureties, in a penalty not less than double the sum sued for, to pay all costs, shall be allowed; and if the conviction so made by the said justice shall be confirmed, the said justice shall proceed to levy the said forfeiture in the manner hereinbefore directed. And provided also, that no suit or action

shall be brought after twenty days from the time when the offence was committed.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners shall have power to make such allowance to the persons employed in the collection of toll, or rendering other services in pursuance of this act, as they may deem reasonable.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That no such toll shall be demanded after the expiration of four years from and after the fixing of said gates across the said road; and from and after the expiration of the said term, the passage over said bridge shall be free to all persons crossing the same, any thing hereinbefore contained to the contrary notwithstanding: Provided always, that no gate shall be fixed prior to the ceasing of the toll on Perkiomen bridge.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the said commissioners to keep a just and true account of their receipts and expenditures, of the money which shall come to their hands by virtue of the provisions of this act; and they shall annually at the time appointed by law for the settlement of their accounts as county commissioners, furnish a statement of their said receipts and expenditures accompanied by proper vouchers to the persons who shall be appointed to settle their said accounts as county commissioners; who shall in like manner examine, settle and adjust the same; and it shall be the duty of the persons so appointed to settle the said accounts, to lay a copy of the same annually before the court of quarter sessions of the peace of the county aforesaid, for their confirmation.

Approved March 25, 1803. Recorded in L. B. No. 9, p. 84.

CHAPTER MMCCCLXI.

AN ACT FOR THE RELIEF OF DOCTOR ROBERT JOHNSON.

Whereas by the act passed twenty-fourth March, one thousand seven hundred and eighty-five,⁽¹⁾ section fourth, all officers or soldiers of the Pennsylvania regiments or of independent corps, acknowledged by this state as the quota of Pennsylvania in the federal army, and officers being citizens of this state at the time of their entering into the service, not attached to the line of any state, who served therein until the end of the late war with Great Britain, and all officers as aforesaid who have been deranged by the regulations and arrangements of the army, &c. shall be entitled to land according to the pay and rank they last held, before they left the said service in the proportions laid down in the resolution appropriating donation lands: And whereas Robert Johnson alleges that he was regimental surgeon to the sixth regiment of the Pennsylvania line, from the commencement of the war, and continued in that service and as physician until the year one thousand seven hundred and eighty-one, when in obedience to the orders of General Greene, the commander in chief, he was obliged to leave the regimental service in order to assist the wounded officers and soldiers of the American army, then prisoners in the British hospital in Charleston: And whereas it appears that Robert Johnson did not, nor could not forfeit any right or emolument to which he was otherwise entitled, by yielding obedience to the commander in chief in such emergency, and that he continued in actual service till the end of the war with Great Britain: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the board of property be, and they hereby are authorized and required to examine the claims of Robert Johnson, formerly surgeon in the Pennsylvania line, and if the facts set forth in his petition appear to

be well founded to the satisfaction of the board, they are hereby authorized to grant him a patent for land as a surgeon in the Pennsylvania line, any thing in the act for the distribution of the donation land passed twenty-fourth March, one thousand seven hundred and eighty-five, to the contrary notwithstanding.

Approved March 25, 1803. Recorded in L. B. No. 9, p. 88.

Note (¹) Chapter 1139; 11 Statutes at Large, p. 494.

CHAPTER MMCCCLXII.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO EMPOWER AND DIRECT ANN M'FARREN, JOHN AGNEW AND WILLIAM M'CLEAN, ADMINISTRATORS OF ALL AND SINGULAR THE GOODS AND CHATTELS, RIGHTS AND CREDITS, WHICH WERE OF THE ESTATE OF AMOS M'GINLEY DECEASED, TO CONVEY CERTAIN LANDS IN HAMILTON'S BANN AND CUMBERLAND TOWNSHIPS, IN YORK COUNTY, TO SUNDRY PERSONS (FOR) WHOM THE SAID AMOS M'GINLEY WAS A TRUSTEE, AND TO VEST THE SAME IN GRANTEES." (¹)

Whereas by an act passed the twenty-first day of September one thousand seven hundred and eighty-six,⁽¹⁾ Ann M'Farren, John Agnew and William M'Clean were authorized and empowered, (on certain conditions) to convey by deeds, in fee to David Blyth, Moses M'Clean, William Waugh, James Brice, John M'Ginley and James Stephenson respectively, certain lots of ground therein described, but by reason of the death of some of the grantees before the deeds were executed, and there being no provision in the said act, authorizing the administrators aforesaid, to convey to the heirs or assigns of the grantees, they have prayed the legislature to grant relief by extending the powers of the said administrators so as they may be enabled to make and execute deeds to the heirs and assigns of the aforesaid grantees: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the powers and authorities vested in Ann M'Farren, John Agnew and William M'Clean, to

convey to David Blyth, Moses M'Clean, William Waugh, James Brice, John M'Ginley and James Stephenson, be, and they are hereby extended so as to enable Ann M'Farren, John Agnew and William M'Clean, or the survivor of them, to convey to the heirs or assigns respectively of the said David Blyth, Moses M'Clean, William Waugh, James Brice, John M'Ginley and James Stephenson, (in all cases wherein conveyances have not already been made) which shall be available in law as if the said heirs and assigns had been expressed in the act to which this is a supplement.

Approved March 25, 1803. Recorded in L. B. No. 9, p. 89.

(¹) Chapter 1243; 12 Statutes at Large, p. 297.

CHAPTER MMCCCLXIII.

AN ACT FOR RAISING BY WAY OF LOTTERY, A SUM NOT EXCEEDING TEN THOUSAND DOLLARS, FOR THE PURPOSE OF DISCHARGING THE DEBTS OWING BY THE TRUSTEES OF THE GERMAN RELIGIOUS SOCIETY OF ROMAN CATHOLICS, OF THE HOLY TRINITY CHURCH, IN THE CITY OF PHILADELPHIA, AND FOR PROVIDING MEANS TO SUPPORT A SCHOOL UNDER THEIR PATRONAGE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be lawful for the trustees of the German religious society of Roman catholics, of the Holy Trinity church in the city of Philadelphia, and their successors, at any meeting of the said board of trustees after the passing of this act, and by a majority of votes of the said trustees who shall be then assembled, to elect and appoint three persons dwelling in the city of Philadelphia as commissioners, and the said three persons so to be elected and appointed, shall be commissioners, to raise by way of lottery, a sum not exceeding ten thousand dollars; which said sum of ten thousand dollars after all expenses, costs and charges necessarily attending the carrying of this act into effect, are first deducted and paid thereout, by the said commissioners, shall be applied by and under the direction of the trustees of

the German religious society of Roman catholics, of the Holy Trinity church in the city of Philadelphia, and their successors, to the discharging of the debts due from the said trustees and religious society or congregation, which they have incurred in the building of the Holy Trinity church, of a house for the residence of the pastor of the said congregation, and of a school-house for the education of youth, and from other pious and charitable causes; and if after those debts are discharged, any balance of the said monies so to be raised as aforesaid should remain, such balance shall be employed and appropriated by and under the direction of the trustees of the German religious society of Roman catholics, of the Holy Trinity church in the city of Philadelphia, and their successors, in such way and manner as they shall think best to the support of the school now under their patronage.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall notify to the governor of this commonwealth, the names of the persons who shall be elected and appointed commissioners in pursuance of this act.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That each of the said commissioners shall previously to entering upon the duties of his office, take and subscribe an oath or affirmation, diligently and faithfully to perform the duties entrusted to him; and at least two of them shall attend at the drawings of each day, and when the whole is completed shall cause an accurate list of the fortunate numbers in the said lottery to be published, in at least two newspapers printed in the city of Philadelphia.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners previously to selling any tickets in the said lottery, shall lay the scheme thereof before the governor of this commonwealth for his approbation, and shall moreover enter into bonds with sufficient security to the governor, for the due and faithful performance of their duty, in the sales of the tickets, drawing the lottery, and managing all the business of the said lottery

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners be, and they are hereby authorized, to settle and adjust all accounts which may be exhibited by any person or persons legally employed in carrying this act into effect, and that all expenses necessarily attending the carrying of this act into effect shall be paid by the said commissioners, out of the net proceeds of the said lottery as aforesaid.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months next after publication as aforesaid, shall be deemed and adjudged as relinquished for the benefit of the trustees of the German religious society of Roman catholics, of the Holy Trinity church in the city of Philadelphia, and their successors for ever.

Approved March 25, 1803. Recorded in L. B. No. 9, p. 91.

CHAPTER MMCCCLXIV.

AN ACT RELATING TO COUNTY TREASURERS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, no county treasurer shall serve in said office longer than three years, in any term of six years.

Approved March 28, 1803. Recorded in L. B. No. 9, p. 93.

CHAPTER MMCCCLXV.

AN ACT TO INCORPORATE THAT PART OF THE TOWNSHIP OF THE NORTHERN LIBERTIES, LYING BETWEEN THE WEST SIDE OF SIXTH STREET AND THE RIVER DELAWARE, BETWEEN VINE STREET AND COHOCKSINK CREEK.

Whereas the inhabitants of that part of the township of the Northern Liberties, lying between the west side of Sixth street and the river Delaware and between Vine street and Cohock-

sink creek have petitioned the legislature to be incorporated: And whereas it appears to the legislature that many useful regulations and improvements, would be made within the said described parts of the said township, if the same were incorporated: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the inhabitants of that part of the township of the Northern Liberties, lying between the west side of Sixth street and the river Delaware, and between Vine street and the Cohocksink creek, be, and they and their successors for ever are hereby constituted a corporation and body politic, in fact and in law, by the name and style of "The commissioners and inhabitants of that part of the township of the Northern Liberties lying between the west side of Sixth street and the river Delaware, and between Vine street and Cohocksink creek;" and by the same name shall have perpetual succession, and they and their successors shall at all times for ever be able and capable in law, to have, purchase, take, receive, possess and enjoy, lands, tenements and hereditaments, liberties, franchises and jurisdictions, goods, chattels and effects to them and their successors for ever, or any other or less estate; and the same lands, tenements and hereditaments, goods, chattels and effects, to grant, bargain, sell, alien and convey, mortgage, pledge, charge and incumber, or demise and dispose of at their will and pleasure: Provided always, that no sale be made of any of the lands, tenements or hereditaments, except such as hereafter may be acquired, and that no part of the estate to be mortgaged or incumbered, for any sum exceeding the amount of three years taxes within the said incorporated district, nor for a longer term than three years.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said corporation by the name and style aforesaid, are and for ever shall be able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all

courts of record and elsewhere, in all manner of actions, suits, complaints, pleas, causes and matters whatsoever; and to do and execute all and singular, other matters and things that to them as a body politic and corporate in law and in fact shall and may appertain; and for that purpose shall have and use one common seal, and the same from time to time shall and may at their will and pleasure change and alter, deface and make anew.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the inhabitants living within the said described parts of the township of the Northern Liberties, who are or shall be qualified agreeably to the constitution and laws of this state, to vote for members to serve in the general assembly, to meet together at the town house situate within the limits of the said corporation, between the hours of ten in the morning and eight in the evening, on the first Saturday of May next; and then and there to choose by ballot, out of such of the inhabitants residing within the limits of the said corporation, who according to the constitution and laws of this state may be members of the house of representatives thereof, in the manner prescribed for choosing members in the said house of representatives, fifteen suitable persons in the district aforesaid, to serve as commissioners in and for the said incorporated district; and the five persons who shall have the greatest number of votes, shall be commissioners for three years next following, and the five persons who shall have the next greatest number of votes, shall be commissioners for two years next following, and the five persons who shall have the next or third greatest number of votes, shall be commissioners for one year thence next following; and that on the first Saturday in May, which will be in the year one thousand eight hundred and four, and so on the first Saturday in May annually for ever, five persons shall be chosen as aforesaid, to serve as commissioners in the said district for the term of three years. Provided always, that no person shall be excluded from being elected on account of his having before filled the office of commissioner: And provided also, that in all

cases wherein the number of votes shall be equal for two or more candidates, the preference shall be decided by lot, to be drawn by the inspectors of the election.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, that all elections to be held in pursuance of this act, shall be conducted by three inspectors, who shall be appointed at the same place where the commissioners are to be elected as aforesaid, by the electors then assembled, within one hour preceding the election of the said commissioners; and each of the inspectors so appointed shall take an oath or affirmation before some justice of the peace of the county, before entering on the duties in and by this act enjoined, well and faithfully to discharge the same according to the best of his skill and abilities.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That all elections to be held in pursuance of this act, shall be held and conducted, except as in and by this act is otherwise directed, in the same and like manner as in and by the laws of this commonwealth, is or shall be directed for holding the general elections for persons to serve in the house of representatives, under and subject to the same rules and penalties.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That when each election so had and held in pursuance of this act shall be closed, and the number of votes for each person shall be ascertained, the judges of the election as aforesaid or a majority of them, shall prepare and make under their respective hands and seals a return thereof, containing the names of the commissioners elect, with the number of votes in favor of each; and shall within two days after the closing of each election, give notice in writing to each of the commissioners elect of their respective elections; and shall also deliver or cause to be delivered the said returns, together with the tickets, list of names, tally-papers and other documents, sealed up to the said commissioners elect, at the times and places in and by this act appointed for them to meet and receive the same.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, that the fifteen persons who shall at the next election to be held in pursuance of this act, have the highest number of votes for the office of commissioners (or on an equality of votes by lot) shall meet together at the said townhouse between the hours of nine and eleven o'clock in the forenoon, of the fourth day next following the said election; that the five persons who shall at every subsequent election have the highest number of votes for the said office of commissioner, together with the ten commissioners whose time shall not have expired, shall meet together at the place aforesaid between the hours of nine and eleven in the forenoon, on the fourth day next following each and every election to be held in pursuance of this act; and then and there shall receive the said returns of commissioners elect, and shall forthwith proceed to examine the same and to judge and determine thereon; and for that purpose the said commissioners so met or a majority of them, shall be judges of the said elections; and shall have full power and authority to approve thereof or to set aside the same, and to order new elections as the law may require, to be held in the manner hereinbefore directed, and at such times as shall be by them appointed, of which they shall give at least six days notice, by handbills posted up in at least ten of the most public places within the said incorporated district.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That each and every commissioner who shall be elected and returned, and whose election shall be approved in manner aforesaid, shall, before he enters on the duties of his said office, take a solemn oath or affirmation before some justice of the peace of the county, well and faithfully to execute the office of a commissioner of said district; and shall thereupon without any further or other commission enter upon the duties thereof, and shall hold and exercise the same for the term for which he shall have been elected as aforesaid.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if any commissioner of the

said district shall misbehave in his said office, or shall fail or neglect well and faithfully to discharge the duties thereof, it shall and may be lawful for any number, not less than ten of the said commissioners, on the petition and complaint in writing of thirty electors of the said district, fifteen of whom shall be freeholders, to remove in a summary way any such commissioner from his said office: Provided nevertheless, that the said petition and complaint in writing shall fully and minutely state, all the causes assigned for such removal, and no other cause whatever shall be assigned, heard or enquired into: And provided also, that a copy of the said petition and complaint, with a notice of the time and place appointed for hearing and enquiring into the same, shall be served on such commissioner, at least ten days before any such hearing or enquiry shall be made.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That in case two or more vacancies shall happen by death, resignation, removal or otherwise, a majority of the board of commissioners may appoint special elections for supplying such vacancies; and for that purpose a writ from under the hand of their president, and seal of the corporation shall issue, directed to the proper officers; and every special election, shall be held and conducted, and the proper return thereof made in manner and form as is hereinbefore directed for the general election; and the persons so legally chosen shall be commissioners for the remainder of the time, that the commissioners in whose places they were elected had been elected for.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That a majority of the whole of the said commissioners shall be a quorum for transacting all business, except for the purchase and sale of real estate, for the mortgaging or incumbering of the same, or for borrowing any money as aforesaid; for which purpose the concurrence of ten members shall be essential; and the said commissioners shall receive no compensation for their services.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners when

assembled together for that purpose, shall have full power and authority to appoint a suitable person or persons, under such security and penalties as to them may appear necessary, for the inspection and measurement of all cord-wood that may be landed, or offered for sale within any part of the said district; and to make, ordain and establish such and so many laws, ordinances and regulations not inconsistent with the constitution and laws of this commonwealth, as shall be necessary and convenient for the purposes of ascertaining the tolls and rates of wharfage, for all articles brought to public landings belonging to the said incorporated district; for directing the conduct of all persons concerned in buying, selling or acting on any part of the estate belonging to the said incorporation; for fixing the compensation of the officers appointed by the said commissioners for their respective services; for lighting, watching, watering, pitching, paving, repairing and cleansing the streets, lanes and alleys, and the same to enforce, put in use and execution by the proper officers under such penalties as they may prescribe, and at their pleasure to annul, alter and make anew: Provided always, that nothing herein contained shall vest in the said commissioners an authority to regulate the prices of property or labor.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the court of quarter sessions of the peace for the county of Philadelphia, shall have and they are hereby vested with full power and authority, to enquire of, hear, try and determine, all offences which shall be committed within the said incorporated district, contrary to this act; or against any of the laws, ordinances or regulations that shall be made, ordained or established in pursuance of this act; and to punish the offender or offenders as by the said laws, ordinances or regulations shall be prescribed or directed, except where the fines, penalties or forfeitures shall not exceed the sum of twenty dollars, which shall be recoverable before any justice of the peace of the county, residing within the said incorporated district: Provided always, that if any person or persons shall think him, her or themselves aggrieved by any judgment to be given as aforesaid, it shall and

may be lawful for such person or persons, at any time within the space of six days next following the date of such judgment, to appeal therefrom to the next court of common pleas or quarter sessions of the county of Philadelphia, he, she or they first entering into recognizance, with at least one sufficient surety in the sum of forty dollars to prosecute the said appeal with effect, and to abide the order of the court, or in default thereof to be sent by mittimus to the sheriff of the county by him to be kept until he, she or they perform the judgment of the court, or be otherwise legally discharged.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That such and so many of the said laws, ordinances and regulations as shall not be published in one or more of the public newspapers, published in the said district or in the city of Philadelphia, and in handbills printed in German and English, and posted up in not less than ten of the most public places in the district aforesaid, within ten days from and after their being severally passed, ordained and established, and also recorded in the office of the recorder of deeds for the county of Philadelphia, who shall be allowed and paid for recording thereof, at the same rate as is allowed the master of rolls for recording the laws of this commonwealth, within thirty days from and after their being so as aforesaid passed, ordained and established, shall be null and void.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That before any of the said laws, ordinances, regulations and constitutions, shall be so as aforesaid recorded, the publications thereof respectively shall be proved by the oath or solemn affirmation of some credible person, which oath or affirmation shall be recorded therewith, and at all times be deemed and taken as sufficient evidence of the time of such publications.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners shall have full power and authority to limit, direct and appoint the depth of all vaults, wells and sinks hereafter to be dug within the said district, for privies or necessities; which regulations

being so made as aforesaid, shall be published and recorded, and the publication proved in the same manner, and within the same period as is herein before directed; and if any person or persons shall dig or cause to be dug, any such vault, well or sink for privies or necessary houses, of any greater depth than shall be limited or appointed as aforesaid, every such person or persons so offending and being thereof legally convicted, in the court of quarter sessions of the peace for the county of Philadelphia, shall forfeit and pay the sum of one hundred dollars, to be appropriated towards defraying the contingent expenses of the said corporation; and the said vaults, wells and sinks shall be filled up, at the expense of the owners.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, that no person or persons shall lay any foundation or party wall within the said district, before they shall have applied to two or more of the regulators appointed by the said commissioners, who are hereby required and empowered to appoint three or more discreet and skillful persons for that purpose.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said regulators upon application to them made, shall have full power and authority to enter upon the land of any person or persons, in order to set out the foundations and regulate the walls to be built between party and party, as to the breadth or thickness thereof; which foundation shall be laid equally upon the lands of the persons between whom such party walls are to be made; and the first builder shall be reimbursed one moiety of the charge of such party wall, or so much thereof as the next builder shall have occasion to make use of, before the next builder shall use or break into the said wall; the charge or value whereof to be fixed by the said regulators, or by arbitrators mutually chosen.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That all appeals hereafter made from the order, direction and award of the said regula-

tors, shall be taken and made, and shall lie to the next court of common pleas, to be holden for the county of Philadelphia within one calendar month from the time of making the order, direction or award appealed from, but not afterwards nor otherwise; whereupon the said court upon security being entered by the party appealing, for the payment of all costs in case he or she should not prevail in his or her appeal, shall direct a venire to the sheriff of the county, commanding him to summon a jury to try the matter in dispute, and shall proceed therein according to law.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall lay, or begin to lay the foundation of any party wall, or wall adjoining to or upon the line of any public street, lane or alley; or shall erect any frame building within the said incorporated district, without first applying to the said regulators, and having the lines and boundaries of the said lot or piece of ground whereon the said foundation is or ought to be laid, or frame building erected, surveyed and marked out; or if after having the lines and boundaries surveyed and marked out as aforesaid, shall neglect or refuse to build agreeably thereto, and shall extend such foundation or building a greater distance beyond the same than is allowed by law, without an appeal therefrom, unless determined otherwise on an appeal, in either case every such person employed, as well as master-builder, shall forfeit and pay the sum of forty dollars, to be recovered as debts under twenty pounds are by law recoverable; one half thereof to be appropriated to the use of the commissioners aforesaid, for the purpose of defraying the contingent expenses of the corporation, and the other half to the informer, with costs; provided the prosecution be commenced within one year from the time the offence shall be committed.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the regulators appointed as aforesaid, shall enter in a book all directions, orders and awards by them made in pursuance of this act; and every such order and award if made with reasonable notice to the parties interested shall be conclusive, unless the same

be set aside upon appeal as aforesaid; which book shall be provided and kept by the said commissioners, and shall be under their direction: Provided always, that no person under age, non compos mentis, feme covert, imprisoned or beyond sea, or who shall not have notice as aforesaid, shall be injured or affected by any proceeding, order, direction or award, until the expiration of three years after their coming to full age, returned from beyond sea, discoverture, being at large, of sound memory; or, if within the United States, until the expiration of one year after notice in writing, within which period his, her or their appeal may be entered and prosecuted as aforesaid.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That all lands and landing places, tenements, hereditaments, ferries, wharves, market-stalls, rights, franchises, liberties, privileges, goods, chattels and effects whatsoever, whereof any person or persons or bodies politic or corporate are seized or possessed, or which they or any of them hold and enjoy, in trust for or to and for the use of the inhabitants of the said district, to which the said inhabitants are entitled, be, and they are hereby severally and respectively vested in the said corporation or body politic, and their successors in and by this act established, by the name, style and title aforesaid, to and for the use and benefit of the said inhabitants and their successors for ever, saving nevertheless to all and every person and persons, and bodies politic and corporate, his, her, and their rights therein.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the treasurer of the said commissioners before he undertakes his office, shall give bond with two sufficient sureties to the commissioners, in such penalty as they from time to time may judge proper; conditioned that he will well and faithfully execute his office, keep regular accounts of his receipts and disbursements, pay all the orders drawn on him by the said commissioners, or a majority of their board, as soon as sufficient monies shall come to his hands, from any of the funds under the direction of the commissioners; and that he will once in every year, or oftener

if thereunto required, settle and adjust with the said commissioners a full and just account, supported with proper vouchers of all his receipts and payments during the preceding time; and that upon his death or the appointment of another treasurer in his room, which the said commissioners or a majority of their board are hereby authorized to do, whenever they see cause, he, his executors or administrators, shall settle and adjust all his accounts with the said commissioners, and pay the remaining balance in his hands to his successor in office, charging for his trouble no more than shall be allowed him by the said commissioners.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That so much of all and every act or acts as directs, authorizes or requires any matters or things to be done and performed, by commissioners, regulators or surveyors within the said incorporated district; or by any other person or bodies politic or corporate to manage its concerns, shall from the fourth day after the election of the commissioners, by this act constituted a body politic and corporate, be null and void; excepting the three first sections of the act, entitled "An act to authorize the inhabitants of the Northern Liberties within a certain described part thereof, to regulate the streets, lanes and alleys within the same, and for other purposes therein mentioned," passed April the seventeenth, one thousand seven hundred and ninety-five;⁽¹⁾ which said three first sections shall remain in as full force as if this act had not been passed; and the surveyors and other officers or persons acting in pursuance thereof, shall proceed to the final completion of the survey, and general regulation therein contemplated and directed; which said survey and general regulation when confirmed, according to the form and manner expressed in the said three first sections, shall remain obligatory upon and unalterable by the said corporation and board of commissioners constituted by this act: Provided nevertheless, that nothing herein contained shall bar, prevent or in any manner impede the recovery of any sum or sums of money, or of any other matter or thing for the recovery whereof suits have been or may be instituted; but the same may be carried

on by the said commissioners hereby incorporated, to final judgment, execution and recovery: And provided further, that all and every matter and thing that has been commenced, begun or entered upon by the said commissioners or regulators, or either of them, in pursuance of the powers and authorities in them vested, shall be of the same force and effect as if this act had not been passed; and may from and after the time last mentioned, be proceeded in and carried into effect, as fully as the same might or could have been done by the said commissioners or regulators, or either of them, had this act not been passed; and for this purpose all contracts and agreements made or entered into by the said commissioners or regulators, or either of them, in pursuance of the powers in them legally vested, previously to the time last aforesaid, shall be equally binding upon the commissioners, and upon the person or persons with whom the same have been or shall be made, as if the same had been originally made and entered into by and between them: Provided also, that nothing contained in this act, shall in any wise prevent the supervisors of the township, from assessing and collecting such taxes otherwise by law directed, as may be necessary for the repairing and improving of the highways in the said township.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners shall have full power and authority, to pave or cause to be paved, the footways and gutters within the said incorporated district; or so much thereof as they shall deem necessary, with brick or flat stones as the case may require; and shall plant or cause to be planted curbstones or posts, as to them may appear proper, to prevent the said pavements or gutters from being injured by carriages; agreeably to the regulations made and established, or to be made and established by the surveyors in pursuance of an act, entitled "An act to authorize the inhabitants of the Northern Liberties within a certain described part thereof, to regulate the streets, lanes and alleys within the same, and for other purposes therein mentioned," passed April the seventeenth, one thousand seven hundred and ninety-five;⁽¹⁾ and shall assess the freeholders in

front of whose ground such footways shall be paved, in order to defray the expense of paving and keeping the same in repair, in proportion to their respective extents of front; and the said commissioners shall have full power and authority, upon the application of two thirds of the freeholders, on any street, lane or alley to establish lamps and a nightly watch, in such street, lane or alley, the expense to be defrayed by an assessment agreeably to the county rates and levies, within the district so lighted and watched; and upon like application shall have full power and authority, to pitch and pave any street, lane or alley within the said district, provided the said street, lane or alley so required to be paved, be not less in length than one, nor exceeding two squares at any one time; and the owners of land in front of which such street is pitched and paved, shall be taxed in proportion to the extent of the respective fronts of their property, within the street so pitched and paved: Provided always, that all and every owner or owners of ground, shall have the privilege of paving the footway on their own fronts as aforesaid, so that they have it completed within one month, after due notice in writing being given for that purpose by the said commissioners, or by any person by them appointed: And provided further, that no person shall be obliged to pave any footway, to a greater breadth than four feet in front of any lot whereon a dwelling house shall not be erected.

Section XXVI. (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That for the well governing of the said district, and the ordering the affairs thereof, there shall be such officers therein, and at such salaries or compensation as the commissioners shall direct; each and every of such officers shall nevertheless before entering on the duties of his said office, take a solemn oath or affirmation, well and faithfully to perform and execute the same.

Section XXVII. (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That the supervisors of the highways of the aforesaid township, shall pay annually into the hands of the treasurer of the said corporation, one-third part of the monies by them collected for the repairs of the pub-

lic highways, which sum shall be appropriated by the before mentioned commissioners, for the purpose of repairing and cleansing the streets within the district aforesaid, and, for paving the intersections thereof.

Section XXVIII. (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners shall have full power and authority, to lay yearly and every year, any rate or assessment not exceeding twenty-five cents in every hundred dollars, of the clear value of all the real and personal estate within the said district; to be applied to the purpose of carrying this act into execution, and for defraying the expense of repairing the pumps already erected, and which may hereafter be erected by the inhabitants; and to appoint collectors of all taxes by this act made payable, from whom adequate security shall be taken; and all rates and assessments being fairly made, shall be transcribed in a book to be kept by the said commissioners; and a duplicate thereof shall be delivered to the said collectors, by them to be appointed from among the inhabitants of the said district, who are hereby authorized, enjoined and required, to receive, collect and recover, the rates and assessments in the same manner and form, and by the same legal remedies which are by law appointed, for recovering and collecting the county taxes in the said township; and having received and collected the same or any part thereof, shall at the end of every month from time to time of his appointment, or when thereunto required, account with and pay to the person whom the said commissioners shall appoint their treasurer, all such sums of money which they shall have so collected during the preceding months, deducting therefrom such commissions as shall have been agreed upon, at the time of entering security: Provided, such commissions do not exceed five per centum, on all monies so received or collected.

Section XXIX. (Section XXIX, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners shall cause all accounts of receipts and expenditures of money, to be published up to the thirty-first day of December, inclusive in each and every year, within three months there-

after; and the vouchers in support of all charges may be viewed at any reasonable hour, by any taxable inhabitant residing within the bounds of the corporation who may demand the inspection thereof; and the said commissioners shall also keep regular minutes of their proceedings, which may be examined by like persons, and at like times as the accounts aforesaid: Provided, that no inspection thereof shall be permitted, until three months after making such minutes respectively, unless ten commissioners, the names of whom shall be entered on the minutes, consent thereto.

Section XXX. (Section XXX, P. L.) And be it further enacted by the authority aforesaid, That all and every person or persons, bodies politic or corporate, who are or shall be seized or possessed of any lands, tenements and hereditaments, goods, chattels, monies and effects whatsoever, which they or any of them hold or enjoy, in trust for or to and for the use of the inhabitants of the said incorporated district, to which the said inhabitants are entitled, shall on reasonable request, deliver the same to the said commissioners, together with all deeds, writings, evidences, books and papers, touching and concerning the same, with proper assignments where the same shall be necessary, and just, true and fair accounts thereof; and whosoever shall fail therein, shall be liable to be sued for the same, and shall moreover forfeit and pay to the said commissioners, any sum of money not exceeding twelve hundred dollars, to be sued for and recovered in any court of record, and to be applied to the use of the inhabitants of the said district; and upon trial any inhabitant of the said district, shall be a competent witness on behalf of the said commissioners.

Section XXXI. (Section XXXI, P. L.) And be it further enacted by the authority aforesaid, That no misnomer of the said corporation, shall defeat or annul any gift, grant, devise or bequest to or from the said corporation: Provided, the intent of the parties shall sufficiently appear on the face of the gift, grant, will or other writing, whereby any estate or interest was intended to pass to or from the said corporation; nor shall any disuser or nonuser of the rights, liberties, privi-

leges, jurisdictions and authorities hereby granted to the said corporation, or any of them, create or cause a forfeiture thereof.

Section XXXII. (Section XXXII, P. L.) And be it further enacted by the authority aforesaid, That as often as any doubts shall arise touching this act, the same shall in all courts of law and equity and elsewhere, be construed and taken most favorably for the said corporation.

Approved March 28, 1803. Recorded in L. B. No. 9, p. 94.
Note (*). Chapter 1841, 15 Statutes at Large p. 296.

CHAPTER MMCCCLXVI.

AN ACT DIRECTING SHERIFFS AND CORONERS TO GIVE SUFFICIENT SURETIES FOR THE FAITHFUL EXECUTION OF THEIR OFFICIAL DUTIES, AND FOR OTHER PURPOSES.

Whereas the public security requires that sheriffs and coroners should give sureties, proportioned to the trusts confided, for the faithful execution of their official duties: And whereas the existing laws, relating to this subject, are defective, inadequate and inapplicable to the greater number of the counties within the commonwealth: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the sheriff of each and every of the following counties, before he shall be commissioned or execute any of the duties of his office, shall enter into a recognizance and become bound in an obligation with at least two sufficient sureties, in the sums and manner herein after mentioned, to wit: The sheriff of the city and county of Philadelphia, in the sum sixty thousand dollars; the sheriff of the county of Bucks, in the sum of fifteen thousand dollars; the sheriff of the county of Chester, in the sum of twenty thousand dollars; the sheriff of the county of Lancaster, in the sum of twenty-five thousand dollars; the sheriff of the county of York, in the sum of fifteen thousand dollars; the sheriff of the

county of Berks, in the sum of twenty thousand dollars; the sheriff of the county of Cumberland, in the sum of fifteen thousand dollars; the sheriff of the county of Northampton, in the sum of fifteen thousand dollars; the sheriff of the county of Bedford, in the sum of eight thousand dollars; the sheriff of the county of Northumberland, in the sum of fifteen thousand dollars; the sheriff of the county of Westmoreland, in the sum of ten thousand dollars; the sheriff of the county of Washington, in the sum of fifteen thousand dollars; the sheriff of the county of Fayette, in the sum of ten thousand dollars; the sheriff of the county of Franklin, in the sum of ten thousand dollars; the sheriff of the county of Montgomery, in the sum of fifteen thousand dollars; the sheriff of the county of Dauphin, in the sum of fifteen thousand dollars; the sheriff of the county of Luzerne, in the sum of seven thousand dollars; the sheriff of the county of Huntingdon, in the sum of eight thousand dollars; the sheriff of the county of Allegheny, in the sum of ten thousand dollars; the sheriff of the county of Mifflin, in the sum of eight thousand dollars; the sheriff of the county of Delaware, in the sum of eight thousand dollars; the sheriff of the county of Lycoming, in the sum of five thousand dollars; the sheriff of the county of Somerset, in the sum of five thousand dollars; the sheriff of the county of Greene, in the sum of five thousand dollars; the sheriff of the county of Wayne, in the sum of six thousand dollars; the sheriff of the county of Adams, in the sum of eight thousand dollars; the sheriff of the county of Centre, in the sum of five thousand dollars; the sheriff of the county of Crawford, in the sum of five thousand dollars; the sheriff of each and every new county which shall hereafter be erected and organized, in the sum of five thousand dollars, and for every representative to whom the said new county shall be entitled in the general assembly, more than one, an additional sum of four thousand dollars; and the coroner of each and every county before he shall execute any of the duties of his office, shall enter into a similar recognizance and become bound in a similar obligation with at least two sufficient sureties in like circumstances, in one fourth of the sum, which shall be by law required from the sheriff of the

same county, "That he will well and truly perform all and singular the duties to the said office of coroner appertaining."

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said recognizances and bonds shall be taken and duly recorded by the recorder of deeds of the proper county; and when so taken and recorded shall be by him endorsed, as duly recorded and forthwith transmitted to the secretary of the commonwealth, who shall file the same in his office; copies whereof, under the hand and seal of office of the said secretary or recorder shall be admitted as legal evidence in any suit or suits that shall be brought thereon against the cognizors or obligors, their heirs, executors or administrators respectively; but before any such bond shall be so as aforesaid, taken or recorded, the sufficiency of the sureties therein named, shall be submitted to and approved of by the judges of the court of common pleas of the proper county, or by any two or more of them for that purpose convened; and no commission shall be afterwards granted before the governor shall have also approved of the sufficiency of the sureties aforesaid.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the recognizance of the sheriff shall be taken by the recorder of the proper county, in the following form, to wit:

Yop A. B. C. D. and E. F. do acknowledge that you owe unto the commonwealth of Pennsylvania,
dollars, to be levied and made of your several goods and chattels, lands and tenements, upon condition that if you A. B. shall and do without delay, and according to law, well and truly serve and execute, all writs and process of the commonwealth of Pennsylvania, to you directed, and shall and do from time to time, upon request to you for that purpose made, well and truly pay, or cause to be paid, to the several suitors and parties interested in the execution of such writs or process, their lawful attorneys, factors, agents or assigns, all and every sum and sums of money to them respectively belonging, which shall come to your hands, and shall

and do from time to time, and at all times during your continuance in the office of sheriff of the county of _____, well and faithfully execute and perform all and singular, the trusts and duties to the said office lawfully appertaining, then this recognizance to be void, or else to be and remain in full force and virtue, taken and acknowledged the _____ day of _____, in the year of our Lord, one thousand eight hundred and _____, before me G. H. recorder in and for the county of _____;” and the obligation of the sheriff and his sureties shall be in the form following to wit: “Know all men by these presents, that we A. B. C. D. and E. F. are held and firmly bound unto the commonwealth of Pennsylvania, in the sum of

_____ dollars, to be paid to the said commonwealth, for the uses, intents and purposes declared and appointed, in and by an act entitled “An act directing sheriffs and coroners to give sufficient sureties for the faithful execution of their official duties, and for other purposes,” to which payment well and truly to be made and done, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated the _____ day of _____, in the year of our Lord, one thousand eight hundred and _____. : The condition of the above obligation is such, that if the said A. B. after he shall be duly commissioned sheriff of the county of _____, for the term of _____, from and after the second Tuesday of October in the year last aforesaid, shall and do without delay according to law, well and truly serve and execute all writs and process of the said commonwealth to him directed, and shall and do from time to time upon the request to him for that purpose made, well and truly pay or cause to be paid to the several suitors and parties interested in the execution of such writs or process, their lawful attorneys, factors, agents or assigns, all and every sum and sums of money to them respectively belonging, which shall come to his

hands, and shall and do from time to time, and at all times during his continuance in the said office of sheriff of the county of _____, well and faithfully execute and perform all and singular the trusts and duties to the said office appertaining, then this recognizance to be void or else to be and remain in full force and virtue:

Provided always nevertheless, that no such recognizance or obligation shall be of any force or effect, if a commission shall not be afterwards granted to the person, who with proper sureties shall have executed or acknowledged the same, in the manner prescribed by this act.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That all the lands, tenements and hereditaments, which such sheriffs, coroners and their sureties shall possess, or be entitled to in every county within this commonwealth, shall be bound by a recognizance taken in manner aforesaid, as effectually as a judgment to the same amount in the court of common pleas of all the counties aforesaid, might or could now bind the same; and whenever the commonwealth, or any individual or individuals shall be aggrieved by the misconduct of any sheriff or coroner, it shall and may be lawful, as often as the case may require, to institute actions of debt of scire facias upon such recognizance against such sheriff or coroner, and their sureties, their heirs, executors or administrators; or actions of debt upon such obligations against such sheriff or coroner, and their sureties, their heirs, executors or administrators; and if upon such suit it shall be proved what damage hath been sustained, and a verdict and judgment shall be thereupon given, execution shall issue for so much only as shall be found by the said verdict and judgment with costs; which suits may be instituted and the like proceedings be thereupon had, as often as damage shall be so aforesaid sustained: Provided always, that such suit or suits against such sureties, their heirs, executors or administrators, shall not be sustained by any court of this commonwealth, unless the same shall be instituted within five years after the date of such obligation or recognizance.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That until sureties shall be given in manner aforesaid, all commissions granted to, and all acts and things whatsoever done by any such sheriff or coroner, under color of office, shall be void and of none effect.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That whenever a vacancy shall happen in the office of sheriff or coroner, which is to be filled by a new appointment in the manner prescribed, by the first section of the sixth article of the constitution of this commonwealth, the person about to apply so to be commissioned, shall enter into a recognizance, and give an obligation with sureties to be approved by the governor, in manner aforesaid, for a sum proportioned to the time for which the commission is to be granted.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any sheriff of the city and county of Philadelphia, or of any other county within this commonwealth, shall be legally removed from his office, or die before the expiration of the term for which he shall have been commissioned, the coroner of the proper county shall execute the office of sheriff, and all things thereunto appertaining, until another sheriff shall be duly commissioned; and notice thereof shall be given to the coroner then exercising the office of sheriff; and the security and pledges given by every coroner in pursuance of this act, shall be a security to the commonwealth, and to all persons whomsoever for the faithful discharge and due performance of all the duties required by law from such coroner.

Section VIII. (Section VIII, P. L.) And whereas the process by distringas is dilatory and expensive, and it is necessary to provide some adequate remedy therein, to prevent the delays of sheriffs and others in the duties of their respective offices: Be it therefore enacted by the authority aforesaid, that the court out of which any writ of distringas vice-comitem, or distringas nuper vice-comitem, or other writ of distringas proceeds, may by a rule for that purpose made, order and direct that the issues levied from time to time

shall be sold, and the money arising thereby be applied in the first instance to pay such costs to the plaintiff, as the said court shall think just, under all circumstances to order, and have the remainder thereof in court to be retained until the defendant shall have appeared, or other purpose of the writ be answered, or to be rendered to the plaintiff for his debt, damages and costs where the same shall be ascertained: Provided, that where the purpose of a writ is answered, the said issues shall be returned, or if sold, what shall remain of the money arising by such sale shall be repaid to the party distrained upon.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That whether a demand for that purpose shall be made or not, it shall be the duty of every sheriff, his deputy or agent, immediately after the receiving of any of his fees, or of a bond, or other written security therefor, to deliver a bill of particulars, specifying the several items contained therein, and the amount thereof; to give the party so paying or securing the payment of any fees, a receipt in full therefor; to endorse on such written security when taken, that the same was given for fees, and to sign the endorsement so to be made; and if any sheriff, his deputy or agent shall neglect to give such receipt, or make such endorsement in the manner directed by this act, on conviction thereof before the court of quarter sessions of the proper county, he shall forfeit and pay any sum not exceeding fifty dollars to the party injured, who is hereby declared to be a competent witness to prove such neglect.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That within six months after the passing of this act, the sheriff of every county within this commonwealth, shall publish and set, and keep up in some conspicuous part of his office, the ninth section of this act, for the inspection of all persons having business in such office; on pain of forfeiting for each day the same shall be missing through the said sheriff's neglect, the sum of ten dollars; which penalty may be recovered in any court of record, one

half to the use of the informer, and the other half to the use of the county, wherein the offence shall be committed.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That so much of every former act of assembly as is hereby altered or supplied, be, and the same is hereby repealed and annulled: Provided always, that nothing in this act contained, shall ever be so construed, as to impair, or in any manner affect any obligations, bonds, recognizances or other securities, heretofore made, given or acknowledged; or in any degree to prevent or obstruct the recovery of any monies, fines, forfeitures, penalties, debts or demands due or accruing, by virtue of any former act or acts or parts thereof, which are hereby repealed and annulled.

Approved March 28, 1803. Recorded in L. B. No. 9, p. 112.

CHAPTER MMCCCLXVII.

AN ACT TO ENABLE MARTIN HOCKER, TO OBTAIN A TITLE TO A LOT OF LAND IN THE TOWNSHIP OF PAXTON, AND COUNTY OF DAUPHIN.

Whereas it has been represented to the legislature, that Martin Hocker, did purchase of his brother John Hocker, a lot of land, containing about ten acres, situate in the township of Paxton, in the county of Dauphin, and hath actually paid the full consideration for the same, according to the terms of an agreement made in the life time of the said John Hocker, who is since dead, by reason whereof he is deprived of the means of obtaining a title thereto, and as no written contract was made respecting the premises, he therefore prays the legislature to authorise the administrators of the said John Hocker, to execute a deed to him the said Martin Hocker, his heirs and assigns: And whereas the said representation appears to be true, it is just and reasonable that the prayer of the petitioner ought to be granted: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by

the authority of the same, That the administrators of the said John Hocker, deceased, be, and they are hereby authorised on behalf of the heirs, of the said deceased, to convey to the said John Hocker, his heirs and assigns, the lot of land aforesaid, agreeably to the buts, boundaries and terms of the agreement aforesaid.

Approved March 28, 1803. Recorded in L. B. No. 9, p. 121.

CHAPTER MMCCCLXVIII.

AN ACT FOR THE CONSOLIDATION AND AMENDMENT OF THE LAWS, AS FAR AS THEY RESPECT THE POOR OF THE CITY OF PHILADELPHIA, THE DISTRICT OF SOUTHWARK, AND THE TOWNSHIP OF THE NORTHERN LIBERTIES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the corporation of the city of Philadelphia, in select and common council assembled, the corporation of the district of Southwark, and the justices of the peace of the township of the Northern Liberties, or a majority of them, shall meet on the third Monday in May next, at three o'clock in the afternoon, at the several places herein after mentioned; that is to say, the select and common councils of the city of Philadelphia, shall meet in the city hall at the time aforesaid, and by the joint vote of said councils elect, viva voce, sixteen substantial house-keepers, inhabitants of the said city; and the corporation of the district of Southwark shall, at the same time, meet in the commissioners' hall, in the said district, and then and there elect in manner aforesaid, six substantial house-keepers, inhabitants of said district; and the justices of the peace in the Northern Liberties, or a majority of them, shall at the time aforesaid, meet at the town house in the Northern Liberties, and then and there elect eight substantial house-keepers, in manner aforesaid, who shall be inhabitants of said township,

to be guardians of the poor in the said city, district and township; and the said select and common council, the corporation of Southwark, and the justices of the Northern Liberties, shall forthwith direct their respective clerks to give notice in writing to each of the persons so chosen, of their appointment, within two days thereafter; and after the appointment of managers as hereinafter directed, who shall be taken in the ratio aforesaid, as near as may be from the city district and township aforesaid, the whole number of guardians remaining shall be equally divided by lot, so that one half, as near as may be, of those for the city, district and township, shall be included in said equal division, which one half of said whole remaining number, shall continue in office for six calendar months, and no longer; and the other half shall continue until the twenty-first day of May, one thousand eight hundred and four, and no longer; and on the third Monday in November next, or within ten days thereafter, the corporation of the city, the corporation of the district of Southwark, and the justices of the peace of the township of the Northern Liberties, or a majority of them, shall again meet, at the several places in the respective districts before mentioned, at three o'clock in the afternoon, and then and there in manner aforesaid, elect and constitute successors to serve for one year, in the stead of those who shall go out of office; and so every third Monday in May, and every third Monday in November annually thereafter, the said corporation of the city of Philadelphia in select and common council assembled, the corporation of the district of Southwark, and the justices of the peace of the Northern Liberties, or a majority of them, shall meet as aforesaid, and appoint one half of the said guardians to supply the place of those who shall go out of office, (including those appointed as managers when their times shall expire) yearly, in order that there may be always some experienced persons in office; and if any guardian shall die or remove out of the said city, district or township, for which he may have been elected, before the expiration of his office, the president of the board of guardians shall without delay, after having received satis-

factory information of the death or removal of any such guardian, direct and cause such vacancy to be supplied within ten days after such information, so by him received, in manner before directed and pointed out: Provided always, that all elections for guardians of the poor, in manner aforesaid, shall be conducted with open doors.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That every guardian elected in manner before directed, shall within ten days after his appointment, and before he enters upon the execution of his office, take an oath or affirmation according to law, which the mayor or recorder or any of the aldermen in the said city, or justice of the peace in the said district or township, is hereby authorized to administer, that he will discharge the office of guardian of the poor truly, faithfully and impartially, to the best of his knowledge and ability; and in case of neglect or refusal to take the necessary oath or affirmation, for the faithful execution of said office, within the time aforesaid, he shall forfeit and pay the sum of sixty dollars, for the use of the poor of the said city, district and township aforesaid: Provided always, that no person shall be appointed a guardian of the poor, of the said city, district or township aforesaid, who is not a citizen of this state.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said guardians of the poor for the time being, shall be a body politic and corporate in law, by the name of "The guardians of the poor of the city of Philadelphia, the district of Southwark and township of the Northern Liberties," with all the privileges, powers and faculties of a body politic and corporate; and by that name may take and hold, all the estate real and personal, now vested in the present guardians of the poor of the city, district and township aforesaid; and also any other real estate, to them and their successors, not exceeding the value of sixteen thousand dollars; and take and hold goods and chattels to them and their successors, be the said real or personal estate conveyed to them, by gift, grant, bequest, or other alienation whatever; and may sue and be sued, plead and

be impleaded, in courts of record or any other place whatever, and make such laws, rules and orders, as shall appear to them or a majority of them, to be useful and necessary for the government of the said corporation, its officers, estates, property and the business and affairs in general of the same: Provided, that such laws, rules and orders be not inconsistent to the constitution and laws of this state, or of the United States.

Section IV.(Section IV, P L.) And be it further enacted by the authority aforesaid, That the said guardians of the poor or a majority of them, shall meet at the house of employment on the fourth Monday in May next, and appoint eight of their number, four to be taken from the said city, two from the said district, and two from the said township, in order to superintend the almshouse and house of employment in the said city; who shall forthwith after their appointment, divide themselves by lot into two classes, the time of service of the first class shall end at the expiration of six months, and that of the second class at the expiration of one year from their first appointment; and on the fourth Monday in May and November annually, the places of those whose time of service has expired, shall be supplied by a new election of persons, in the proportion aforesaid for one year, from the body of guardians of the poor, so that four shall be appointed every six months; and the said eight managers shall exercise all the authorities of the present managers of the said institution, not inconsistent with the provisions and regulations of this act; the books of the managers shall at all times be open to the inspection and examination of the guardians of the poor at the almshouse, and the said managers shall during their continuance in office, be exempted from all other duties of office required of the guardians, and from the duties of jurors; and the whole duties of the guardians shall be performed by the remaining guardians who are not managers, who shall also be exempted from the duties of jurors during their continuance in office; the said managers shall also, previously to their entering on the execution of the office of manager, respectively take an oath or affirmation according to

law, which the mayor or recorder, or any alderman of the said city, or justice in the said district or township, is hereby empowered to administer, that he will discharge the office of manager truly, faithfully and impartially, to the best of his knowledge and ability; and if any manager shall die, remove out of the city, district and township, or become insolvent, before the time for which he was appointed shall expire, his place shall be supplied by a new election, to be made by the guardians and managers aforesaid, or a majority of them.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers or a majority of them, having first obtained the approbation of any four of the said aldermen, and two of the justices of the said district, and two from said township, to make and lay a rate of assessment, not exceeding one hundred cents in the hundred dollars at any one time, upon the value of all the real and personal estate within the said city, district and township respectively; and not more than three dollars per head on every freeman, not otherwise rated for his estate, in every one hundred cent tax; and so in proportion for any lesser rate on the county assessment of the city, district and township aforesaid.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said managers or a majority of them, with the approbation of the said aldermen and justices, in laying the rates as aforesaid, shall be guided by the county assessment, made or to be made on other occasions; having due regard to every man's estate within the said city, district and township, so to be rated and assessed; and shall enter such rates fairly in a book, of which a fair duplicate signed by the said managers or a majority of them, shall be delivered to the aldermen and justices aforesaid, who shall allow the same, if they find it just and reasonable, without fee or reward; and shall permit any inhabitant to inspect the rates at all reasonable times without any fee or reward; and shall give copies on demand, being paid at the rate of four cents for every twenty-four names; and if any

such manager shall not permit any inhabitant to inspect, or shall refuse to give copies as aforesaid, he shall forfeit three dollars to the party aggrieved, to be recovered as debts under forty shillings are directed by law to be recovered.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said guardians of the poor, and managers of the almshouse, or a majority of them, at a general board, to appoint and employ fit persons, who are citizens residing in the city of Philadelphia, the district of Southwark, or the township of the Northern Liberties, to be receivers and collectors of the poor tax, and taxes assessed or imposed, or hereafter to be assessed or imposed upon the inhabitants of the said city, district and township, for the use and benefit of the poor thereof; which said receivers and collectors so to be appointed, shall actually reside within the district wherein they are empowered to collect; and shall with two freehold sureties to be joined therein, severally, make and execute a bond or bonds unto the said guardians of the poor, in a sum equal to double the amount of his or their duplicate, with a condition or conditions thereunto severally annexed and underwritten, for the true and faithful performance of all and singular, the duties and services which shall or may be lawfully imposed upon and required, from such collector or collectors respectively; which said bonds, the guardians aforesaid shall forthwith file in the prothonotary's office, and after being so filed, are hereby declared to be and operate from the time of filing the same, as a judgment or judgments, upon the lands, tenements, goods, chattels and effects of the said receivers, collectors and their sureties, until the final adjustment, settlement and discharge of the said receivers and collectors, for or on account of their respective duplicates.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the said collector or collectors to be appointed as aforesaid, shall and may from time to time, levy and raise from and upon all and every the said inhabitants of the city, district and township aforesaid, and of and from their respective estates, chattels and

effects, all such sums of money as shall be lawfully assessed and imposed upon the said inhabitants respectively, or their respective estates, chattels and effects, for the use and benefit of the poor; and it shall be the duty of the receivers or collectors of the poor taxes, immediately on being furnished with their respective duplicates, to give two months notice to the taxable inhabitants, residing within the district wherein he is appointed to collect the said tax, requiring them to pay the same to him within two months; and all those who shall have neglected to call and pay their tax within the time aforesaid, shall be called upon by the collector in person, at least once at their respective dwellings or places of abode, and demand payment of the said tax; and in case of nonpayment thereof, he shall leave a written or printed notice, stating the sums respectively due, with information that if the said tax is not paid within thirty days from the date of such notice, that their goods, chattels and effects so levied upon and distrained, shall be irrepleviable by the person or persons from whom the tax may be due, and may be removed by the said collector to his own dwelling house or elsewhere within the said district, and sold at public sale by the said collector, within ten days after the distress so as aforesaid made, five days notice of such sale being first publicly given; and it shall be the duty of the said collector, when and as often as he shall seize and make distress as aforesaid, and he is hereby enjoined to furnish and deliver at the time of making such distress, to the owner or owners of the goods so seized or distrained, a just, true and perfect inventory of the goods, chattels and effects so as aforesaid distrained; and to furnish to the owner or owners as aforesaid, a true and perfect account of the amount of the sales of said goods, chattels and effects, so as aforesaid distrained and sold; and if any surplus should be and remain after payment of the taxes due, and reasonable costs and charges incident to the sale, then and in such case the collector aforesaid, shall pay over to the owner or owners aforesaid, the said surplus; and in case of neglect or refusal to pay over the said surplus within three days after such sale, if demanded, the collector

shall forfeit and pay a sum not exceeding ten per centum, to be calculated upon the said surplus; to be recovered together with such surplus before any alderman or justice, any law, usage or custom to the contrary in any wise notwithstanding; and it shall be the duty of the said collector or collectors, to keep an exact account of all sums of money rated and collected by them, and of all such sums of money as are rated and not collected by them; and the examination and final settlement of the accounts of the said collector or collectors shall belong to the said managers and guardians of the poor, who shall have full power and authority to allow and deduct such parts thereof only, as to them shall seem just and reasonable.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the said managers and guardians of the poor, or a majority of them, shall annually appoint one of their own body, removable at their pleasure, to act as treasurer of the said corporation; to whom the collector or collectors shall pay once in every week, and render an account of all sums of money which they shall respectively have received, for or on account of the said poor tax; and the said treasurer shall give a receipt or receipts to such collector or collectors, for the money which he or they shall from time to time pay to him; which said receipt or receipts shall be a good and sufficient discharge, to the said collector or collectors, for so much money as may be therein expressed to have been received; it shall also be the duty of such treasurer to pay out of the money belonging to the said corporation in his hands, all such orders as may be lawfully drawn on him, by order of the board of managers or guardians as the case may be; and before he enters on the execution of his office, he shall become bound to the said guardians of the poor, with two or more sufficient freehold sureties, in an obligation of twenty thousand dollars, conditioned for the true and faithful discharge of his said office, and at the expiration thereof, or his removal from the same, he will well and truly pay over to his successor, all the money, books, accounts, bonds and other papers belonging to the said corporation, which

shall then be remaining in his hands or possession; and no person shall be capable of holding the said office of treasurer longer than three years, in any term of six years.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said guardians of the poor, or a majority of them, shall appoint a proper person, removable at their pleasure, with a salary or compensation not exceeding the yearly sum of four hundred dollars, and it shall be the duty of the said officer to attend the general meetings of the said guardians of the poor, to keep fair minutes of their transactions; and generally to do and perform all such other duties as may be enjoined on him by the said corporation; but before he enters on the execution of his office, he shall become bound to the said guardians of the poor, with one or more sufficient freehold sureties, in an obligation of two thousand dollars, conditioned for the true and faithful discharge of his said office, and at the expiration thereof, or his removal from the same, he will deliver over to his successor all the books, accounts and other papers belonging to the said corporation which shall then be remaining in his hands, custody or possession.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That any of the said guardians of the poor, may with the consent of any alderman of the said city, or justice of the peace residing in the said district or township, afford relief to the sudden necessity of any poor person, not exceeding eight dollars within three months; and it shall be the duty of the said guardian to state the circumstances of such case to the next general meeting of the guardians; and the said guardians, or a majority of them, shall take measures to have such poor person or persons removed to the place of legal settlement.

Section XII. (Section XII, P. L.) And whereas it frequently happens that cases suddenly arise, that require immediate relief and assistance, without the possibility of having the person or persons immediately removed to the almshouse and house of employment: for remedy whereof, Be it enacted, by the authority aforesaid, that in all such cases,

two of the guardians of the poor shall and may personally visit the person or persons so suddenly and immediately requiring relief and assistance, his, her, or their family; and if in the opinion of such guardians so visiting as aforesaid, the person or persons, his, her or their family or families require immediate assistance, and that he, she or they cannot with safety and convenience to themselves, be immediately removed to the almshouse and house of employment, then and in all such cases, the said guardians shall and may furnish to such person or persons, his, her or their family or families, such reasonable and moderate relief as he, she or they may require, from day to day, until the next meeting of the general board of guardians; when the said guardians so furnishing relief aforesaid, shall and they are hereby enjoined to report the case or cases, together with the circumstances and the amount of relief furnished; after which it shall be the duty of the said general board to take the premises into consideration, and order and direct a continuance of the relief and assistance in manner and form aforesaid; or direct and order the person or persons so as aforesaid relieved, to be forthwith removed to the almshouse and house of employment; and in case the general board shall be of opinion, that the person or persons so as aforesaid visited and relieved, shall be removed to the almshouse and house of employment, and if the said person or persons shall refuse to be so removed, then and in such case from and immediately after such refusal, no further or other relief shall be furnished or allowed to such person or persons, his, her or their family, other than in the house aforesaid.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the managers aforesaid, or a majority of them, to put out as apprentices to some trade or calling, all poor children; that is the children of such poor persons, who are dead without leaving property or kindred to provide for their children; or who if living shall be found unable to maintain them; males to the age of twenty-one and females to the age of eighteen years; and also with the approbation of any two

aldermen of the said city, or justices of the peace residing in the said district or township, to bind out by indenture or deed poll, any disorderly persons who by their own lewdness, drunkenness or evil practices have fallen sick and become chargeable to the said city, district and township, to any master or mistress, and his and her assigns, who will advance and pay such consideration for such service as the said managers or a majority of them shall think fit to accept for the same: Provided always, that no married man or woman, nor any person of the age of forty years and upwards, shall be liable to be bound by indenture or deed poll as aforesaid; and that such binding shall not be for a longer term than will be sufficient to reimburse the guardians of the poor, the expences incurred on account of such person, and so as the same do not exceed in the whole the space of three years.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That no person or persons shall be admitted or entered in the poor book of the said almshouse and house of employment, but those who have legal settlement; or where they have not procured security to repay the expenses; nor before such person or persons shall have procured an order, signed by at least two of the said guardians of the poor, who shall thereon state the reason and cause of such order, which shall be laid before the board of managers when they shall next sit, who shall determine thereupon as they shall think proper.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if any person appointed to be one of the guardians of the poor within this corporation, not having before served therein as aforesaid, shall refuse or neglect to take upon himself the said office, he shall forfeit sixty dollars to the said corporation, for the use of the poor of the said city, district and township; to be levied by warrant issued by the mayor of the city of Philadelphia, or two justices of the township of the Northern Liberties or the district of Southwark; and if any guardian of the poor shall remove from said city, district and township, he shall before such his removal, deliver over to some other guardian

of the poor of the said city, district or township, his office; and upon the death of any guardian, his executors or administrators shall within forty days after his decease, or within forty days after they undertake the execution of the will, or administration of the estate of such deceased guardian, deliver over all things concerning his office to some other guardian as aforesaid, and shall also pay out of the assets all monies remaining due which he received by virtue of his office before any of his other debts are paid, saving funeral charges.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if any person who shall come to inhabit in the said city, district or township, shall for himself and on his own account execute any public office being legally placed therein, in the said city, district or township, during one whole year; or if any person shall be charged with, and pay his or her share towards the public taxes or levies for the poor of the said city, district or township, for two years successively; or if any person shall really and bona fide take a lease of any lands or tenements in the said city, district or township, of the yearly value of ten pounds, and shall dwell in or upon the same for one whole year, at one and the same time, and pay the said rent; or shall become seized of any freehold estate in any lands or tenements in the said city, district or township, and shall dwell in or upon the same for one whole year; or if any unmarried person not having children or child, shall be lawfully bound or hired as a servant in the said city, district or township, and shall continue and abide in such service during one whole year; or if any person shall be duly bound an apprentice by indenture, and shall inhabit in the said city, district or township, with his or her master or mistress for one whole year, such persons in any of these cases shall be adjudged and deemed to gain a legal settlement in the said city, district or township.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That every indented servant legally and directly imported from Europe into this state,

who shall serve with his or her master or mistress in the said city, district or township, sixty days immediately after his or her arrival; or who after having so served in any other place within the state, shall duly serve any master or mistress in the said city, district or township, for the space of one year, shall obtain a legal settlement therein; and all mariners and every other healthy person coming from Europe into this state, shall gain a settlement in the said city, district and township, in the same manner as is hereinbefore directed.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That any married woman shall be deemed during coverture and after her husband's death, to be legally settled in the place where he was last legally settled; but if he shall have no known legal settlement, then she shall be deemed, whether he is living or dead, to be legally settled in the place where she was last legally settled before her marriage.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That if any person or person shall, after the publication of this act come out of any borough, township or place within this state, into the said city, district or township of the Northern Liberties there to inhabit and reside; and shall at the same time procure, bring and deliver unto the guardians of the poor in the said city, district and township, a certificate under the hands and seals of the overseers of the poor of the borough, township or place whence he, she or they removed, to be attested by two or more credible witnesses, thereby acknowledging the person or persons mentioned in the said certificate to be an inhabitant or inhabitants legally settled in that borough, township or place, every such certificate having been allowed of and subscribed by one or more justices of the peace of the county where such borough, township or place doth lie, shall oblige the said borough, township or place to provide for the persons mentioned in the said certificate, together with his or her family as inhabitants of that place, whenever he, she or they shall happen to become chargeable, or be obliged to ask relief of the

said city, district and township, and then and not before it shall and may be lawful for any such person, and his or her children though born in the said city, district or township, and his or her servants and apprentices, not having otherwise acquired a legal settlement therein, to be removed, conveyed and settled in the borough, township or place whence such certificate was brought; and the witnesses who attest the execution of the certificate by the overseers, or one of the said witnesses, shall make oath or affirmation according to law, before the justice or justices who are to allow the same, that such witness or witnesses did see the overseers of the poor, whose names and seals are thereunto subscribed and set, severally sign and seal the said certificate, and the names of such witnesses attesting the said certificate are of their own proper hand-writing; which said justice or justices shall also certify, that such oath or affirmation was made before him or them; and every such certificate so allowed, and oath or affirmation of the execution thereof so certified by the said justice or justices, shall be taken and received as evidence without other proof thereof; and no person so coming by certificate into the said city, district or township, nor an apprentice or servant to such person shall be deemed or adjudged by any act whatsoever, to have gained a legal settlement therein, unless such person shall after the date of such certificate, execute some public annual office being legally placed therein, in the said city, district or township.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That no person whomsoever who shall come into the said city, district or township, without such certificate as aforesaid (mariners and other healthy persons coming from Europe as aforesaid excepted) shall gain a legal settlement therein, unless such persons shall give security if required, at his or her coming into the same, or within three months thereafter, for indemnifying and discharging the said city, district and township; to be allowed by any one alderman of the said city, or justice of the peace residing in the district or township aforesaid.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That upon complaint being made by the guardians of the poor of the said city, district and township, to any one or more of the aldermen of the said city, or to one or more of the justices of the peace of the county residing in the said district or township, that any person or persons therein, is or are likely to become chargeable, it shall and may be lawful to and for any two aldermen of the said city, or any two justices of the peace of the county residing in the said district or township, by their warrant or order directed to the said guardians of the poor, to remove and convey such person or persons to the borough, township, state or place where he, she or they was or were last legally settled, unless such person or persons shall give sufficient security to discharge and indemnify the said city, district and township: Provided always, that if any person or persons shall think him, her or themselves aggrieved, by an order of removal made by any of the said aldermen or justices, such person or persons may appeal to the next mayor's court for the said city, or the next court of quarter sessions of the peace for the said county, from whence such poor persons shall be removed and not elsewhere; which said court shall determine the same; and if there be any defects of form in such order, the magistrates or justices composing such court, shall cause the same to be rectified and amended without any costs to the party; and after such amendment shall proceed to hear the truth and merits of the cause; but no such order of removal shall be proceeded upon unless reasonable notice be given by the said guardians of the poor, unto the overseers of the borough, township or place from which the removal shall be, the reasonableness of which notice shall be determined by the court to which the appeal is made; and if it shall appear to such court that reasonable time of notice was not given, then the appeal shall be adjourned to their next sessions, when and where the same shall be finally determined.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That for the more effectual prevention of vexatious removals and frivolous appeals, the

mayor's court for the city, or the court of quarter sessions for the county of Philadelphia, upon any appeal concerning the settlement of any poor persons, or upon proof before them there to be made, of notice of any such appeal to have been given by the proper officer, to the guardians of the poor of the said city, district and township, or to the overseers of the poor of any borough, township or place, (though they did not afterwards prosecute such appeal) shall at the same sessions, order to the party in whose behalf such appeal shall be determined, or to whom such notice did appear to have been given, such costs and charges as by the said court in their discretion shall be thought most reasonable and just; to be paid by the guardians, overseers or any other persons against whom such appeal shall be determined, or by the person that did give such notice; and if the person ordered to pay such costs and charges shall live out of the jurisdiction of the said court, any justice of the peace where such person shall inhabit, shall on request to him made, and a true copy of the order for the payment of such costs and charges, certified under the hand of the clerk of the court, by his warrant, cause the same to be levied by distress; and if no such distress can be had, shall commit such person to the common jail, until he pays the said costs and charges or be otherwise legally discharged; and if the said court on such appeal shall determine in favor of the appellant, that such poor person was unduly removed, they shall at the same session order and award to such appellant, so much money as shall appear to them to have been paid by the city, district, borough, township or place on whose behalf such appeal was made, towards the relief of such poor person, between the time of such undue removal and the determination of such appeal with the costs aforesaid; the said money so awarded, and the costs to be recovered in the same manner as costs and charges awarded against an appellant, are to be recovered by virtue of this act as aforesaid.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That upon information given to the mayor or recorder of the city of Philadelphia,

for the time being, together with one of the aldermen of the said city, or to any two justices of the peace of the county of Philadelphia, residing in the said district of Southwark, or the township of the Northern Liberties, that any old persons, infants, maimed, lunatic, or any vagabond or vagrant persons are imported, come, or are brought within the said city, district, or township, the said mayor or recorder, and aldermen as aforesaid, or any two justices of the peace for the county of Philadelphia, residing in the said district or township, shall cause such aged person, infants, or impotent, or vagrant persons to be brought before them; and if upon examination they shall judge, that such person or persons are likely to become chargeable to the said city, district or township, it shall and may be lawful for the said mayor, or recorder and aldermen, or two justices of the peace as aforesaid, by warrant or otherwise, to send for the master or merchant, or other person who imported any such infant, lunatic, aged, maimed, impotent or vagrant person or persons, as are likely to become chargeable as aforesaid: And upon proof made of their being the importers, or owners of such ship or vessel, in which such infant, lunatic, aged, maimed, impotent, or vagrant persons, who shall be judged likely to become chargeable as aforesaid were imported, then the said mayor, or recorder and alderman, or any two of the justices as aforesaid, shall and may compel the said master, merchant or importer of such infant, lunatic, maimed, aged, impotent or vagrant person or persons to give sufficient security, to carry and transport such infant, lunatic, maimed, aged, impotent or vagrant person or persons to the place or places whence such person or persons, were imported or brought from; or otherwise to indemnify the inhabitants of the said city, district and township, from any charge that may come or be brought upon them by such infant, lunatic, maimed, aged, impotent or vagrant person or persons: Provided always, that if any person or persons shall apprehend him or themselves aggrieved, with any such order or judgment, the person or persons so aggrieved, may appeal to the

next mayor's court for the city, or the next court of quarter sessions of the county of Philadelphia where such order shall be made, whose judgment shall be final; but before such appeal be allowed the person or persons appealing, shall enter into a recognizance with one good surety at least, to pay the costs and charges of such appeal, in case the said order be confirmed.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if any housekeeper or inhabitant of the said city, district or township, shall hereafter take into, receive or entertain, in his or her house or houses, any person or persons whomsoever, (all mariners coming into this state, and every other healthy person coming from any foreign port immediately into the said state only excepted) being persons who have not gained a legal settlement, in some other township, borough or place within this state, and shall not give notice in writing, which they are hereby required to do, within three days next after the taking into or entertaining, any person or persons in his or her house within the said city, district or township, to the guardians of the poor or some one of them of the said city, district and township, such inhabitant or housekeeper being thereof legally convicted, by testimony of one credible witness on oath or affirmation before any one alderman of the city of Philadelphia, or before any one justice of the peace residing in the said district or township, shall forfeit and pay the sum of four dollars for every offense; the one moiety for the use of the poor of the said city, district and township, and the other moiety to the informer; to be levied on the goods and chattels of the delinquent in the manner hereinafter directed; and for want of sufficient distress the offender to be committed to the jail of the city and county of Philadelphia, there to remain without bail or mainprize for the space of ten days: And moreover in case the person or persons so entertained or concealed, shall become poor and unable to maintain him or herself, and cannot be removed to the place of his or her last legal settlement in this or any other state, if any such he or she hath, or shall die, and not have where-

withal to defray the charges of his or her funeral, then and in such case the housekeeper or person convicted of entertaining or concealing such poor person against the tenor of this act, shall be obliged for and maintain such poor and indigent person or persons, and in case of such poor person's death, shall pay the guardians of the poor so much money as shall be expended on the burying of such poor and indigent person or persons, and upon refusal so to do, it shall be lawful for the guardians of the poor in the said city, district and township, and they are hereby required to assess a sum of money on the person or persons so convicted, from time to time by a weekly assessment, for maintaining such poor and indigent person or persons; or assess a sum of money for defraying the charges of such poor person's funeral as the case may be; and in case the party convicted, shall refuse to pay the sum of money so assessed or charged, to the guardians of the poor for the uses aforesaid, the same shall be levied on the goods and chattels to satisfy the money so assessed for him or her to pay, then it shall and may be lawful for the said aldermen or justices to commit the offender to prison, there to remain until he or she hath paid the same, or until he or she shall be discharged by due course of law.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if any person be removed by virtue of this act, from any borough, township or county to the said city, district of Southwark, or township of the Northern Liberties, by warrant or order of any two justices of the peace of any county, under their hands and seals, or from the said city, district or township to any other township, borough, county or place, by warrant or order of any two aldermen of the said city, or of two justices of the peace residing in the said district or township, under their hands and seals as aforesaid, the guardians or overseers of the poor of the city, borough, township, or place to which such person shall be removed, are hereby required to receive the said person; and if any of the said guardians or overseers shall refuse or neglect so to do, he or they so offending upon proof thereof, by one or more credible witnesses upon oath or

affirmation before any one of the aldermen of the said city, or justices of the peace of any township, borough or county where the offender doth reside, shall forfeit for every such offence the sum of twenty dollars, to the use respectively of the poor of the said city, district and township, or other township or borough from which such person was removed, to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of the said aldermen or township or borough from which such person was removed; and empowered to make, directed to the constable of the city, district, township or borough where such offender or offenders dwell; returning the overplus if any there be to the owner or owners; and for want of sufficient distress then the offender to be committed to the jail of the county where he dwells, there to remain without bail or mainprize for the space of thirty days.

Section XXVI. (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That if any poor person or persons shall remove out of the city of Philadelphia, the district of Southwark, and the township of the Northern Liberties, into any other township, borough or place within this state, or shall remove out of any borough, township or place into the said city, district or township of the Northern Liberties, and shall fall sick or die, before he or she hath gained a legal settlement in the said city, district and township, or other township or borough to which he or she shall come, so that such person or persons cannot be removed, the guardians of the said city, district and township of the Northern Liberties, or overseers of the said other township or borough into which such person or persons is or are come, or one of them, shall as soon as conveniently may be respectively give notice to the overseers of such township or borough, or to the guardians of the said city, district and township of the Northern Liberties, (as it may happen to be necessary) where such person or persons had last gained a legal settlement, or to one of the said overseers or guardians, of the name, circumstances and conditions of such person or persons; and if such overseers of a township or borough, or guardians of the

said city, district and township of the Northern Liberties, to whom such notice shall be so given, shall neglect or refuse to pay the money expended, as well before as after the said notice, for the use of such poor person or persons, and to take order for relieving and maintaining such poor person or persons; or in case of his, her or their death before notice can be given as aforesaid, shall on request being made, neglect or refuse to pay the money expended in maintaining and buryings such poor person or persons, then and in every such case it shall be lawful for any two aldermen of the said city, or justices residing in the said district, or township of the Northern Liberties, or for any two justices of the peace (not residing in the said district or township of the Northern Liberties) of the county where such poor person or persons were last legally settled, and they are hereby authorized and required, upon complaint made to them, to cause all such sums of money as were necessarily expended for the maintenance of such poor person or persons, during the whole time of his, her or their sickness, and in case he, she or they die, for his, her or their burial, by warrant under their hands and seals to be directed to some constable of the said city, district or township of the Northern Liberties, or of such other township or borough, to be levied by distress and sale of the goods and chattels of the said guardian or guardians, overseer or overseers of the poor so neglecting or refusing, to be paid to the guardians or overseers aforesaid, where such poor person or persons happened to be sick or to die as aforesaid; and the overplus of the monies arising by sale of such goods remaining in the constable's hands, after the sum of money ordered to be paid together with the costs of distress are satisfied, shall be restored to the owner or owners of the said goods: Provided always, that if any of the said guardians of the poor, or the overseers as aforesaid, shall think him or themselves aggrieved by any sentences of such justices, or by their refusal to make any order as aforesaid, he or they may appeal to the next mayor's court for the said city, or to the next court of quarter sessions for the county, where such guardians or overseers reside, and not elsewhere, who are hereby au-

thorized and required to hear and finally determine the same.

Section XXVII. (Section XXVII, P. L.) And whereas it may frequently happen that the place of last legal settlement of poor and indigent persons, may be far distant from the city of Philadelphia: Be it further enacted by the authority aforesaid, that where any person not having legal settlement within the city of Philadelphia, the township of the Northern Liberties, or the district of Southwark, shall be relieved and provided for temporarily by the guardians of the poor in the city of Philadelphia, district of Southwark and the township of the Northern Liberties, it shall and may be lawful for the said guardians to transmit, with the poor or indigent person or persons so as aforesaid relieved, to his last place of legal settlement, a bill containing the amount of monies expended in the relief of such poor indigent person or persons, certified under the seal of the corporation, and attested by the oath or affirmation of the guardian furnishing or expending the same; which said bill so certified and attested, shall be received by the overseers or justices of the township or place where the said poor or indigent person or persons were last legally settled, as evidence, but not conclusive evidence of the amount, if upon an appeal the settlement shall be affirmed, and in case the overseers of the place or township to which such poor and indigent person or persons shall be removed, or the parties removing, as the case may be, shall appeal from the judgment of the said justices to the court of quarter sessions of the county, to which such removal shall be made, the said court shall receive the said bill so as aforesaid certified and attested, as evidence, but not conclusive evidence of the amount; and the overseers of the place or township to which such poor and indigent person or persons shall be so as aforesaid removed, shall be liable to pay the amount adjudged to be due, whether notice has been given to them or not, of the paupers being within the corporation of the guardians of the poor in the city of Philadelphia, district of Southwark, and the township of the Northern Liberties, any law, usage or custom to the contrary in any wise notwithstanding.

Section XXVIII. (Section XXVIII, P. L.) And whereas negroes and mulattos liberated after the age of twenty-eight years, and others not having legal settlement within this corporation or elsewhere, frequently come to inhabit and reside therein: Be it enacted by the authority aforesaid, that the settlement of all negroes and mulattos, whether free or otherwise, shall be deemed and taken to be, so far as respects this corporation, in the township or place where his, her or their master has registered him, her or them, in case he, she or they be slaves; and in the township or place where they were liberated, manumitted and set-free, in case he, she or they be free; and all orders of removal respecting such before described negroes or mulattos, shall be good and effectual in law, and the overseers of the place or township to which any such negro or mulatto shall be removed, shall be bound and they are hereby required to receive and provide for them, as for other poor of their place or township: Provided always nevertheless, that if it shall appear that any such negro or mulatto shall have been liberated, after he or she or they attain the age of twenty-eight years, or has never been legally liberated, manumitted or set free, then and in such case the overseers of the poor to whose place or township any such negroes or mulattos shall be removed, shall and may recover from the master or mistress of any such negro or mulatto, his or her heirs, executors or administrators, having assets, all the costs and charges arising from relieving and removing said negro or mulatto; and the said master or mistress, his or her heirs, executors, or administrators, having assets, shall give security for the future maintenance of such negro or mulatto.

Section XXIX. (Section XXIX, P. L.) And be it further enacted by the authority aforesaid, That the father and grandfather, and the mother and grandmother, and the children and grandchildren of every poor, old, blind, lame and impotent person, or other poor person within the said city, district and township, not able to work, being of sufficient ability, shall at their own charges, relieve and maintain every such poor person as the mayor's court for the city, or the

court of quarter sessions for the county where such poor persons reside, shall order and direct, on pain of forfeiting seven dollars for every month they shall fail therein.

Section XXX. (Section XXX, P. L.) And whereas it sometimes happens that men separate themselves without reasonable cause from their wives, and desert their children; and women also desert their children, leaving them a charge on the said city, district and township, although such persons may have estates which should contribute to the maintenance of such wives or children: Be it therefore enacted by the authority aforesaid, that it shall and may be lawful for the guardians of the poor in the said city, district and township, having obtained a warrant or order from two aldermen of the said city, or from two justices of the peace of the county residing in the said district or township, where such wife or children shall be so left or neglected, to take and seize so much of the goods and chattels, and receive so much of the annual rents and profits of the lands and tenements of such husband, father or mother, as such two aldermen or justices shall order and direct, for providing for such wife and for maintaining and bringing up such child or children; which warrant or order being confirmed at the next mayor's court for the city, or quarter sessions for the county, it shall and may be lawful for the said court there to make an order for the guardians of the poor, to dispose of such goods and chattels by sale or otherwise, or so much of them, for the purpose aforesaid, as the court shall think fit; to receive the rents and profits, or so much of them as shall be ordered by the said court, of his or her lands and tenements, for the purpose aforesaid; and if no real or personal estate of such husband, father or mother can be found, wherewith provision may be made as aforesaid, it shall and may be lawful to and for the said court to order the payment of such sums, as they shall think reasonable, for the maintenance of any wife or children so neglected, and commit such husband, father or mother to the common jail, there to remain until he or she comply with the said order, give security for the performance thereof, or be otherwise discharged by the said court; and on complaint

made to any alderman of the city of Philadelphia, or to any justice of the peace residing in the district of Southwark or township of the Northern Liberties, of any wife or children there being so neglected, such alderman or justice shall take security from the husband, father or mother neglecting as aforesaid, for his or her appearance at the next mayor's court, or court of quarter sessions, there to abide the determination of the said court, and for want of security to commit such persons.

Section XXXI. (Section XXXI, P. L.) And be it further enacted by the authority aforesaid, That the several fines, forfeitures and penalties, sum and sums of money imposed or directed to be paid by this act, and not herein otherwise directed to be recovered, the same and every of them shall be levied and recovered by distress and sale of the goods and chattels of the delinquent or offender, by warrants under the hand and seal of one of the aldermen of the city of Philadelphia, for the said city, and under the hand and seal of any one justice of the peace residing in the said district or township, where the delinquent or offender dwells or is to be found; and after satisfaction made of the respective forfeitures, fines, penalties and sums of money directed to be levied by such warrant as aforesaid, together with such legal charges as shall become due on the recovery thereof, the overplus if any, to be returned to the owner or owners of such goods and chattels, his or her executors or administrators: Provided always, that if any person or persons shall find him or themselves aggrieved, with any judgment of the aldermen of the said city, or justices of the peace aforesaid in pursuance of this act, such person or persons may appeal to the next mayor's court for the city, or court of quarter sessions for the county of Philadelphia, where sentence was given; (except in cases of removal, and in cases of poor persons becoming chargeable in one place who are legally settled in another, as is otherwise provided for by this act) whose decision in all such cases shall be conclusive.

Section XXXII. (Section XXXII, P. L.) And be it further enacted by the authority aforesaid, That the managers for the

time being or a majority of them, shall from time to time, make and ordain rules, by-laws and regulations for the government of all paupers of every description, resident in the alms-house and house of employment; which rules, by-laws and regulations having first received the approbation of the chief justice and attorney-general for the time being, shall be enforced and carried into effect by the managers for the time being or a majority of them: Provided, that such rules, by-laws and regulations be not inconsistent with the constitution and laws of this state, or of the United States.

Section XXXIII. (Section XXXIII, P. L.) And be it further enacted by the authority aforesaid, That if any action shall be brought against any guardian or overseer of the poor or other person, who in aid of either and by his commands shall do anything concerning his office under this act, he may plead the general issue, and give this act and any special matter in evidence; and if the plaintiff shall fail in his action, discontinue the same or become nonsuit, he shall pay double costs.

Section XXXIV. (Section XXXIV, P. L.) And be it further enacted by the authority aforesaid, that the mayor's court of the city of Philadelphia, at their first session in every year, shall appoint one citizen, residing within the said city; and the court of quarter sessions for the county of Philadelphia, at their first session in every year, shall appoint two citizens, one of whom shall reside in the township of the Northern Liberties, and the other in the district of Southwark; which three citizens jointly shall audit and settle the accounts of the treasurer, the board of guardians and managers respectively; and shall also inspect the books and papers of the said corporation, and publish a true and perfect statement of all their receipts, whether in taxes, donations, legacies or otherwise, including a statement of the amount of the taxes levied in each and every year, together with all and every the expenditures of said corporation, in two public newspapers printed in the city of Philadelphia, for the space of three days at least.

Section XXXV. (Section XXXV, P. L.) And be it further enacted by the authority aforesaid, That the present board of managers shall constitute a lawful body until the fourth Monday in May next, and until a new board shall be organized under this act, and no longer; any thing contained in this act to the contrary in any wise notwithstanding.

Section XXXVI. (Section XXXVI, P. L.) And be it further enacted by the authority aforesaid, that all laws heretofore passed relating to the poor of the city of Philadelphia, the district of Southwark and the township of the Northern Liberties, be, and the same are hereby repealed.⁽¹⁾

Approved March 29, 1803. Recorded in L. B. No. 9, p. 122.

Note (1). See Chapter 635; 8 Statutes at Large p. 75, and note thereto p. 96. See also supplements to the act in the text. Chapter 2597, infra this volume, p. 1028; and Chapter 3046, (Act March 11, 1809), 18 Statutes at Large.

CHAPTER MMCCCLXIX.

AN ACT TO ESTABLISH A BOARD OF WARDENS FOR THE PORT OF PHILADELPHIA, AND FOR THE REGULATION OF PILOTS AND PILOTAGES, AND FOR OTHER PURPOSES THEREIN MENTIONED.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That immediately after the passing of this act there shall be established a board of wardens for the port of Philadelphia, to consist of one master warden and six assistant wardens, four of whom shall be inhabitants of the city of Philadelphia, one of the Northern Liberties, and one of the district of Southwark; to be yearly appointed by the governor of the commonwealth; and the said master warden and assistant wardens and their successors, shall have full power and authority to have and use one common seal, with such device as they may think proper, and the same to break, alter and renew at their pleasure.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said wardens shall em-

ploy a clerk, who shall keep fair minutes and entries of all orders, regulations and transactions of the said master wardens and board of wardens, in a book or books to be kept for that purpose; and the said minutes and entries shall be public, and submitted to the inspection of any person or persons who shall desire to see and peruse the same, he or they so desiring the inspection paying to the clerk twelve cents, each time the books shall be opened and examined; and the said clerk shall give true copies of all such entries or minutes made in the said book or books, as may be required, to such person or persons as shall demand the same, he or they paying to the said clerk, one cent for each line the said copy shall contain, consisting of not less than twelve words.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said master warden, or in case of his sickness or necessary absence, some one of the said wardens to be chosen by themselves, shall attend every day at the said office (Sundays excepted) from ten of the clock in the forenoon, till one of the clock in the afternoon, for the dispatch of such business as may be necessary in pursuance of this act; and the person so chosen shall, during the time of such sickness or necessary absence, be vested with the like powers and authorities to do and perform the same duties and receive the same compensation, as the said master warden would have been entitled to.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That there shall be a meeting of the said wardens on the first Monday in every month, and at such other times as the master warden may appoint; and the said wardens, three of whom shall be a quorum, when met, shall have full power and authority under the limitations hereinafter prescribed, to grant licenses to persons to act as pilots in the bay and river Delaware, and to make rules for their government while employed in that service; to decide all differences which may arise between masters, owners and consignees of ships or vessels and pilots, except in cases hereinafter excepted; to direct the mooring of ships and vessels in the harbor, and the order in which they shall lay,

load or unload at the wharves; and to make, ordain and publish, such rules and regulations, and with such penalties for the breach thereof in respect of the matters aforesaid, as they shall deem fitting and proper: Provided, that such rules and regulations shall not be contrary to the constitution and laws of the United States, or of this commonwealth: Provided also, that if any person whosoever shall conceive himself aggrieved, by any decision or penalty made, given and imposed by the said wardens, such person may, except in cases hereinafter excepted, within six days, appeal therefrom to the court of common pleas of the county of Philadelphia; and on such appeal the like security shall be entered, and the like proceedings had, as in the case of an appeal from the judgment of a justice of the peace, for a debt or demand not exceeding ten pounds.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the wardens for the port of Philadelphia, be, and they are hereby exempt from serving as jurymen, in the courts of this commonwealth.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That in case the master warden, or any assistant wardens shall die, neglect, refuse or become incapable to perform the duties enjoined and required by this act, the governor of this commonwealth shall appoint some other discreet, or skillful person, to perform the duties herein enjoined and required.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That every warden who shall be appointed by virtue of this act, shall before he takes upon himself the exercise of the duties herein required, take an oath or affirmation before one of the judges of the court of common pleas for the county of Philadelphia, that he will well and faithfully to the best of his skill, understanding and judgment, do, execute and discharge the office and duties of a warden of the port of Philadelphia, without favor or partiality according to the laws of this commonwealth.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if upon the settlement of the

accounts relative to the said warden's office, and the expenses necessarily incurred in conducting the business thereof, agreeably to the provisions of this act, which accounts the said master warden is hereby enjoined to exhibit quarterly to the register-general, to be settled as is by law directed with respect to other public accounts, it should appear that the monies paid into the hands of the said master warden as aforesaid, have been insufficient to defray the said expenses, it shall and may be lawful for the governor to draw a warrant or warrants upon the state treasurer, for the amount of such deficiency: Provided, the same shall not in any one year except the sum of eight hundred dollars, which shall be paid out of the funds appropriated for the support of government.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall think himself or themselves aggrieved, by any order or sentence made by the master warden for the time being, it shall and may be lawful for such person or persons to appeal therefrom to the board of wardens, on giving bond to the master warden with one sufficient surety, in any sum not exceeding one hundred dollars, to abide and perform the final determination of the board thereon, of the sufficiency of such security the master warden shall judge and determine; which bond shall be executed and tendered within twenty-four hours after notice of such order or sentence; and the party appellant shall prosecute such appeal with effect, before the board at their next meeting, otherwise their appeal shall be dismissed unless a satisfactory cause for a further continuance be shown to the board; and if either of the parties shall require it and the master warden for the time being shall think it proper, a special meeting of the board shall be called for the hearing such appeal, as early as conveniently may be; and if upon such hearing either at a stated or special meeting, the original order or sentence shall be affirmed, the board shall award such reasonable costs, to be paid by the appellant as they shall adjudge to be adequate to the expenses occasioned by the ap-

peal, including the established pay of the master warden and the clerk, for so long time as they shall have attended on the said business.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That in all cases where any license has been or shall be given by the board of wardens of the port of Philadelphia, to erect any wharf or building of the nature of a wharf, beyond low water-mark of the river Delaware, the person to whom such license has been, or shall be granted, shall within six months after the passing of this act or the date of the said license, erect such wharf or building, otherwise the said license shall be of no effect.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any person shall hereafter erect, make or fix, or cause to be erected, made or fixed, on any wharf within the city of Philadelphia, any building, inclosure or other obstruction, whereby a free passage over and along the same shall be impeded or prevented, every such person shall forfeit and pay for every such offense, any sum not exceeding one hundred dollars, to be recovered in the same manner and for the same uses as is directed in and by the thirty-sixth section of this act; and the said wardens shall cause such building, inclosure or obstruction to be abated or removed, if the owner or occupier of any such wharf shall neglect or refuse to abate or remove the same, on three days notice from the said board of wardens: Provided always nevertheless, that nothing hereinbefore contained, shall be taken or construed in any wise to prevent any such owner or occupier from depositing, during a reasonable time, on any such wharf, goods, wares and merchandize, inladen from or about to be shipped on board of any ship or vessel, or for the purpose of being stored; always allowing a sufficient passage for carts, wagons and drays; nor in any wise to hinder any person otherwise entitled so to do, from erecting any building or inclosure on any part of such wharf, lying to the westward of low water-mark or tide-way of the river Delaware.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That when and so often as

any person shall be desirous to extend any wharf, or other building of the nature of a wharf, or cause any such wharf or building to be made in the tide-way of the river Delaware, from any part of the city or liberties of Philadelphia, such person shall make application to the board of wardens, at any of their monthly meetings aforesaid, stating in writing, the nature, extent and plan of such intended wharf or building, and produce their deed or deeds for said lot or lots; and if it shall appear to the board of wardens or a majority of them, that such plan and design may be lawfully executed, and that the same will not improperly encroach upon or injure the said channel or harbor, the board of wardens at any of their stated monthly meetings, or when especially convened in manner aforesaid, shall give their assent and license for erecting, extending or making such wharf or building, and cause the same to be recorded in their office; but if the said board of wardens shall deem it improper to give such assent and license, and the party applying shall think himself aggrieved by their resolutions, he may make such application to the court of common pleas for the county of Philadelphia, who shall order a jury of twelve suitable men, who under oath or affirmation shall view the premises, and make report to the said wardens of their decision, which shall be final and conclusive, a copy of which verdict shall be recorded in the court of common pleas; and if any person or persons after the publication of this act, shall make or extend any wharf or building as aforesaid, within the city or liberties of Philadelphia, into the river Delaware beyond low water-mark, without license first had and obtained from the wardens aforesaid, or in case of their refusal of the court of common pleas aforesaid, he, she or they shall upon conviction thereof, forfeit and pay to the said board of wardens the sum of four thousand dollars, to be by them recovered and applied in such manner as other fines, forfeitures or sums of money by the thirty-sixth section of this act, made payable to them, are directed to be recovered and applied; and likewise to be compelled by the board of wardens to remove such wharf, if it is extended so far as to injure other wharves near it or obstruct the channel.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That no ship or vessel which by the law of the United States may be subject to the duties of tonnage, shall be permitted to moor at, or otherwise occupy any wharf within the city or liberties of Philadelphia, without leave first had and obtained from the owner or possessor thereof: Provided always, that if such leave be duly applied for by the owner, agent, master or other person having charge of any such ship or vessel, and refused by the owner or possessor of any wharf within the limits, aforesaid, being vacant in the whole or in such part as may reasonably accommodate the ship or vessel so applied for, and such vacancies shall not be occupied by some ship or vessel, in which the owner or possessor of the wharf hath an immediate interest, for twenty-four hours after such application and refusal, it shall then and in such case be lawful for the ship or vessel first applied for, to be moored at and occupy such wharf or part thereof, for so long time as shall be requisite for the dispatch of her business, subject nevertheless to the control and direction of the master warden for the time being.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whomsoever, shall from and after the passing of this act, burn or bream, or cause to be burned or breamed, any ship or vessel or any part thereof, at or near any wharf or wharves between South and Vine streets in the said city, he or they so offending, for every such offense, shall forfeit and pay to the said master warden the sum of one hundred and fifty dollars; to be by him recovered and appropriated as other forfeitures herein mentioned, are to be recovered and appropriated by the thirty-sixth section of this act.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the governor shall appoint and commission a person of good character and competent skill, to be harbor master of the port of Philadelphia, and liable to be removed when he shall think proper; and the said harbor master having first taken an oath or affirmation,

and given bond with two sufficient sureties to be approved by the governor, in the sum of four thousand dollars, faithfully and impartially to perform the duties of his office, shall have authority and he is hereby required to enforce and superintend the execution of all laws of the commonwealth, and of all by-laws, rules and regulations of the corporation of the city, or of the wardens of the port of Philadelphia, enacted, ordained and declared, or hereafter to be ordained, enacted and declared, for cleaning the docks and wharves of the port of Philadelphia, for preventing all nuisances at the wharves and in the docks aforesaid, by burning or breaming any ships or vessels or otherwise howsoever, for regulating and stationing all ships or vessels in the stream of the river Delaware, or at the wharves within the boundaries of the city of Philadelphia, for removing from time to time, ships and vessels in order to accommodate and make room for others, or for admitting the river craft to pass in and out of the docks, and for compelling the masters and captains of ships and vessels to accommodate each other, so that ships and vessels arriving from sea shall for a reasonable time, not exceeding six days, be entitled to berths next to the wharves, until they have loaded their cargoes; and for that purpose such ships or vessels as are lading, shall be removed and take in their cargoes over and across the decks of the ships or vessels lying nearest to the wharves; for directing the paying of ships and vessels when applied to for that purpose, between the north boundary of the city and Peg's run in the Northern Liberties, and the south boundary of the city and Catharine street in the district of Southwark; and if any master or captain of any ship or vessel, shall refuse or neglect to comply with the directions of said harbor master, in matters within the jurisdiction of his office, or if any person whosoever, shall obstruct or prevent the said harbor master in the execution of his duties, such master, captain or other person shall for each and every such offense, severally forfeit and pay any sum not exceeding one hundred dollars; to be recovered and appropriated as other forfeitures herein mentioned, are recovered and appropriated by the thirty-sixth section of this act; and the said harbor master

shall have authority to appoint and employ a deputy or deputies, to assist him in the execution of his office, and he shall in full compensation for his services be entitled to have, recover and receive from the master, captain, owner, or consignee of each and every ship or vessel arriving at the port of Philadelphia, coasting vessels not exceeding the burden of seventy-five tons excepted, the sum of one dollar for each and every voyage by such ship or vessel performed, and no more.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That every person exercising the profession of a pilot in the bay or river Delaware, shall within three months after the passing of this act, apply in person to the board of wardens for the port of Philadelphia, for a license to entitle him to follow that occupation; and that it shall be the duty of at least three of the said wardens, to examine every person so applying, as to his fitness in all respects to perform the duties of a pilot, and to grant license to all such as they shall deem qualified according to their respective abilities; those of the first class to persons capable of piloting ships and vessels of any practicable draught of water; those of the second class to persons capable of piloting ships or vessels drawing twelve feet water or under; those of the third class to persons capable of piloting ships or vessels drawing nine feet or under; which licenses shall be in force for one year from the date thereof, and until the pilots respectively shall next after the expiration of the year, arrive with any ship or vessel at the port of Philadelphia, and no longer; but every pilot delivering up his license shall be entitled to receive a new one in lieu thereof, giving like security as herein-after directed, unless it shall appear to the said wardens that the person applying is disqualified from exercising the duties of a pilot; and if any person shall after the time herein prescribed for taking out licenses, exercise the profession of a pilot in the bay or river Delaware without such license, or at any time after his license shall have expired, he shall forfeit for every vessel which he shall undertake to pilot to or from the port of Philadelphia, the sum of thirty dollars, together with the pilotage to which he would be otherwise entitled, one

half to the use of the persons who shall sue for the same, and the other half for the use of decayed pilots, their widows and children.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That no license of the first class, shall be granted to any person who at the time of passing this act, shall not be or within three months previous thereto, have been, a licensed pilot by virtue of the laws of this commonwealth; or who shall not have served a regular apprenticeship of at least six years to a licensed pilot; nor any license of the second class except to persons already licensed as aforesaid, or such as shall have served an apprenticeship of at least five years in manner aforesaid, nor any license of the third class except to persons already licensed as aforesaid, or who shall have served an apprenticeship of at least four years in manner aforesaid; and all indentures of apprentices to pilots shall be recorded in the warden's office, for which the master of such apprentice shall pay the sum of twenty-five cents, to be applied towards defraying the contingent expenses of the said warden's office; nor shall any license be granted until the person applying shall have given bond, with one sufficient surety to the governor of the commonwealth, in any sum not exceeding five hundred dollars, nor less than three hundred dollars, conditioned for the true and faithful performance of the duties and services required by this act, that they will not be aiding or assisting in defrauding the revenue of the United States, and that they will deliver up the license to them granted when required by the wardens, in pursuance of the provisions of this act: Provided, that no person shall be entitled to a license as pilot for any branch, without first having under the immediate inspection of his master, or a pilot of the first branch, conducted a square rigged vessel, (at least brig rigged) twice up and twice down the river.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That if any person having license as a pilot, shall for the space of two weeks refuse or wilfully neglect to execute the duties of a pilot, every such

pilot upon due proof thereof shall forfeit his license; and if any pilot shall enter into any combination, with a view of preventing any other person from executing such duties, every such pilot being thereof duly convicted, shall forfeit his license as a pilot for the bay or river Delaware; and if it should so happen that the number of pilots necessary for the port of Philadelphia, should be reduced by decease, removal or otherwise, as to occasion much inconvenience to the trade of the state, in such case the wardens of the said port, or any three or more of them, are hereby empowered, on such particular occasion as aforesaid, to grant certificates to such person or persons as they may find qualified to act as pilots, for the space of six months; subject to be renewed if occasion should require it; and subject to the like rules, orders and regulations and liable to the like fines, penalties and forfeitures, as other pilots who shall be appointed by virtue of this act.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the licenses or certificates heretofore granted to any pilot or pilots, by any former board of wardens and not vacated, shall be of the same force and effect, as if the said licenses or certificates were granted in pursuance of the directions of this act; and all securities given by any pilots and others on their behalf, shall be and continue to all intents and purposes of the same force and effect, as any securities to be taken in pursuance of this act may or can be.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the pilot who shall first offer himself to any inward bound ship or vessel, shall be entitled to take charge thereof: Provided, his license shall authorize him to pilot ships or vessels of such draught of water; and it shall be the duty of such pilot if required, to exhibit his license to the master or commander of such ship or vessel; and in case the draught of water of such ship or vessel shall be greater than such pilot shall be licensed to carry, he may nevertheless with the consent of the master, take charge of such ship or vessel until a pilot duly qualified shall offer; and if such qualified pilot shall offer before such ship or vessel shall have passed Reedy Island, he shall be received, and the former pilot

entitled to pilotage according to the distance he may have conducted such ship or vessel, and the latter to the residue of the pilotage, which shall be ascertained by the master warden for the time being; and the master or commander of such ship or vessel, shall display the signal for a pilot heretofore used, until a pilot duly qualified shall offer; and if the said master or commander shall refuse or neglect so to do, or shall refuse or neglect to receive a pilot duly qualified, the master, owner or consignee of such ship or vessel, shall forfeit and pay to the wardens aforesaid, a sum equal to the half pilotage of such ship or vessel, to the use of the society, for the relief of distressed and decayed pilots, their widows and children, to be recovered as pilotage in the manner hereinafter directed; and in all cases when extraordinary services have been rendered by any pilot or pilots, the board of wardens shall in case the parties cannot agree, determine the compensation to be allowed for such services; and the pilot shall inform the master of every vessel he shall conduct to the port of Philadelphia, of the rules and regulations necessary in reporting at the warden's office.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of every master or commander of a ship or vessel, outward-bound from the port of Philadelphia, and he is hereby required to remain twenty-four hours after his arrival at the capes, to give to the pilot on board such ship or vessel an opportunity to be taken out; and if the master or commander of such ship or vessel refuses so to do, and if the same can be done without endangering the vessel aforesaid, the master owner or consignee of such ship or vessel, shall forfeit and pay to such pilot, his executors or administrators, any sum not exceeding eight hundred dollars, to be recovered in any court of record in which the same may be sued for, by action of debt or otherwise.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That if it shall so happen that any first rate pilot, having a boat attending him, shall be carried to sea in any ship or vessel contrary to his inclination,

by stress of weather or other unavoidable accident, the master, owner or consignee of such ship or vessel, shall pay to such pilot, his executors or administrators, the same wages as the master of said vessel receives, until the return of said pilot to the said capes; or in case he shall die while so absent, then to the time of his death; and if any second rate pilot shall be carried off as aforesaid, the same wages as the first mate of such vessel receives; and if any third-rate pilot shall be carried off as aforesaid, the same wages as the seamen of such vessel receive; and if any pilot as aforesaid, not having a boat attending him, shall be carried to sea as aforesaid, he shall be paid one half the wages he would have been entitled to, had a boat been attending him.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That when any inward-bound ship or vessel having a pilot on board, shall be prevented by the ice or by any other cause, from proceeding to the port of Philadelphia, and shall be compelled to proceed to some other port or place not in the bay and river Delaware, the pilot shall be entitled to receive and recover from the owner or consignee of such ship or vessel, full pilotage as if he had conducted such ship or vessel to the port of Philadelphia, and shall also receive the sum of eight cents for each and every mile he shall travel to his usual place of abode.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That there shall be allowed two dollars per day, to every pilot of any ship or vessel compelled to perform quarantine, for every day he may be detained, to be paid by the master, owner or consignee of such ship or vessel, and the pilot of such ship or vessel shall not be discharged in less than six days without his consent.

Section XXVI. (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, there shall be paid by every pilot obtaining a license or branch, to authorize him to act as a pilot for the bay and river Delaware, the sum of fifty cents, to be applied for the support of the warden's office.

Section XXVII. (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That the compensation to pilots for conducting ships or vessels from the city of Philadelphia to the capes of Delaware, or from the capes of Delaware to the city of Philadelphia, shall be for every half foot of water which any inward bound vessel shall draw, under and up to twelve feet, the sum of one dollar and thirty-three cents; and for every half foot of water which such vessel shall draw more than twelve feet, the sum of one dollar and sixty-seven cents; and for every half foot of water which any outward-bound vessel shall draw under and up to twelve feet, the sum of one dollar; and for every half foot of water which such vessel shall draw more than twelve feet, the sum of one dollar and thirty-three cents; to be paid by the owner or consignee of such ship or vessel; and shall also receive over and above the said sums, for every vessel not being registered within the United States, the sum of two dollars and sixty-seven cents; and shall also receive over and above the said sums for conducting all ships or vessels, to or from the city of Philadelphia for ever, between the twentieth day of November and the tenth day of March inclusive, in any year, the additional sum of ten dollars: Provided, that no pilot shall have or receive any reward for any supernumerary inches under six; and if any pilot shall be detained by any master, owner or consignee of any vessel, or by the ice, he shall be entitled to receive from the master, owner or consignee of such ship or vessel, the sum of two dollars for every day he shall be so detained.

Section XXVIII. (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That the compensation to be paid to pilots for conducting to or from the city of Philadelphia, all dismasted or otherwise crippled vessel or vessels, which shall have been in any wise injured, so as to occasion to the said pilots any extraordinary care or trouble, shall not exceed double the amount what they otherwise would have been entitled to, of which the board of wardens shall judge.

Section XXIX. (Section XXIX, P. L.) And be it further enacted by the authority aforesaid, That every ship or vessel

arriving from or bound to any foreign port or place, and every ship or vessel of burden of seventy-five tons or more, sailing from or bound to any port not within the river Delaware, shall be obliged to receive a pilot; and it shall be the duty of the master of every such ship or vessel, within thirty-six hours next after the arrival of such ship or vessel at the city of Philadelphia, to make report to the master warden of the name of the pilot who shall have conducted her to the port; and where any such vessel shall be outward bound, the master of such vessel shall make known to the wardens the name of such vessel, and of the pilot who is to conduct her to the capes, and her draught of water at the time; and it shall be the duty of the wardens to enter every such vessel in a book, to be by them kept for that purpose, without fee or reward; and if the master of any ship or vessel shall neglect to make such report, he shall forfeit and pay the sum of sixty dollars; and if the master of any such ship or vessel shall refuse or neglect to take a pilot, the master, owner or consignee of such vessel, shall forfeit and pay to the wardens aforesaid, a sum equal to the half pilotage of such ship or vessel, to the use of the society for the relief of distressed and decayed pilots, their widows and children, to be recovered as pilotage in the manner hereinafter directed: Provided always, that where it shall appear to the wardens, that in case of an inward bound vessel, a pilot did not offer before she reached Reedy island, or in case of an outward bound vessel, that a pilot could not be obtained for twenty-four hours after such vessel was ready to depart, the penalty aforesaid for not having a pilot shall not be incurred.

Section XXX. (Section XXX, P. L.) And be it further enacted by the authority aforesaid, That when any inward-bound ship or vessel having a pilot on board, shall be detained by ice and conducted by him to a place of safety, it shall and may be lawful for the master of any such ship or vessel, after being so detained for forty-eight hours to discharge his pilot, and in such case the pilot shall be entitled to receive and recover full pilotage, as if he had conducted such ship or vessel

to the port of Philadelphia; and in case any such pilot shall be detained more than forty-eight hours, his compensation for such detention shall be two dollars per day, for every day he shall be so detained.

Section XXXI. (Section XXXI, P. L.) And be it further enacted by the authority aforesaid, That if any pilot shall misbehave in the execution of his duty, so that damage shall accrue by reason of his negligence or incapacity, it shall and may be lawful for the person or persons injured or aggrieved, to complain to the wardens, who shall thereupon appoint a time and place of hearing, of which due notice shall be given to such pilot; and upon due proof being made thereof to the wardens, it shall be lawful for them to fine such pilot in any sum not exceeding the amount of the pilotage of the ship or vessel, to which such damage shall have happened, for the use of decayed pilots, their widows and children; or to suspend such pilot for any term which the wardens may think proper; and in every case of suspension the pilot shall deliver up his license to the wardens, to be by them kept till the time for which he may have been suspended shall have expired: Provided always, that nothing herein contained shall be so construed, as to prevent the owner or consignee of any vessel, or any other person or persons from recovering his or their damages in any court having jurisdiction of the same.

Section XXXII. (Section XXXII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful, upon complaint made by any pilot, to the mayor or any alderman in the city of Philadelphia, or to any justice of the peace in any county within this commonwealth, and they are hereby respectively empowered and required to issue forth a precept in writing, under hand and seal in the nature of a summons, *capias* or attachment, as the case may require, directed to any constable, commanding him to bring or cause to come before such mayor, alderman or justice, any person or persons against whom such complaint shall be made, respecting any demand on masters of vessel, owners, consignees or others, respecting pilotage or other claims as pilots; and thereupon proceed to hear the proofs and allegations of the

said parties, or such of them as shall appear; and to determine and pass judgment thereon, where the same shall not exceed the sum of twenty-six dollars and sixty-seven cents, in like manner as debts not exceeding ten pounds, are by the laws of this commonwealth recoverable, and subject to the like appeal, security, trial and costs; and that all such claim or demand for a sum or sums of money exceeding twenty-six dollars and sixty-seven cents, shall be sued for and recovered with costs of suit by action of debt, case, bill, plaint or information, in any court of record within this state.

Section XXXIII. (Section XXXIII, P. L.) And be it further enacted by the authority aforesaid, That every pilot, who shall pilot any ship or vessel to the port of Philadelphia, shall within forty-eight hours next after her arrival at the said port, make report thereof to the warden's office, specifying the name of the master and vessel, and to the best of his information the number of persons on board such vessel; and if any pilot shall neglect or refuse so to do, or knowingly make a false report, he shall forfeit and pay for every such offense the sum of twelve dollars, for the use of decayed pilots, their widows and children, to be recovered as other fines and forfeitures are by this act recoverable.

Section XXXIV. (Section XXXIV, P. L.) And be it further enacted by the authority aforesaid, That if any pilot endeavoring to assist or relieve any ship or vessel in distress, shall suffer loss or damage in his boat, her sails, tackle, rigging or appurtenances, the master, owner or consignee of such ship or vessel, shall be liable to pay to such pilot the value of such loss or damage, to be ascertained by the board of wardens, as to them shall appear just.

Section XXXV. (Section XXXV, P. L.) And be it further enacted by the authority aforesaid, That whenever any person or persons whosoever, shall take or cause to be taken up, within the bay or river Delaware, any anchor or cable, he or they shall bring the same to the port of Philadelphia, and immediately file a written notice thereof, in the office of the wardens of the said port, stating the time when and the place where such anchor or cable was taken up; and shall also cause

a copy of such notice forthwith to be inserted in one of the English newspapers of the city of Philadelphia, and contained therein twice a week for the space of two months, unless the owner or owners thereof, his or their agent or agents, shall before the expiration of the said period, file a claim in writing in the said office, to such anchor or cable; and if upon the filing of such claim, sufficient proof of the property of such claimant be made within a reasonable time, to the satisfaction of the board of wardens, every anchor or cable so taken up and claimed as aforesaid, shall be restored to its proper owner or owners, his or their agent or agents; he or they paying to the person or persons so taking up and bringing the same to the said port, one half of the value thereof, if taken up between the northermost part of Reedy island and the capes of Delaware, and one third of the value thereof, if taken up between the northermost part of said island and the port of Philadelphia; which valuation shall be made by two persons, respectively to be chosen by the parties, who in case of disagreement shall appoint a third, whose decision shall be final; but if no claim shall be so filed within the period aforesaid, the anchor or cable so taken up and brought to the said port, shall be vested in and become the property of the person or persons who may have taken up the same; and if any person or persons who shall have so taken up any anchor or cable, neglect or refuse to observe or comply with the directions above mentioned, he or they shall forfeit and pay for every such offense, the sum of fifty dollars, to be sued for, recovered and applied for the use of decayed pilots, their widows and children, by the master warden of the said port: Provided always, that if the fine or penalty aforesaid, shall be recovered from any person other than a pilot, the money so recovered shall go to the board of wardens, to defray the contingent expenses of said board.

Section XXXVI. (Section XXXVI, P. L.) And be it further enacted by the authority aforesaid, That all forfeitures, penalties, sum or sums of money in this act mentioned, or accruing by virtue thereof, and not otherwise directed and appropriated, shall be payable, sued for, recovered and applied in

manner and form following; that is to say, all the said forfeitures, penalties, sum and sums of money, in and by this act made payable to the master warden for the time being, shall be sued for and recovered by the said master warden, with costs of suit, before the mayor or any alderman of the city of Philadelphia; or before any justice of the peace of the county of Philadelphia, or any other county in this state, where the same shall not exceed the sum of twenty-six dollars and sixty-seven cents, in like manner as other debts under ten pounds are by the laws of this commonwealth recoverable; and subject to the like appeal, security, trial and costs; and that all such forfeitures, penalties, sum and sums of money, as shall amount to more than twenty-six dollars and sixty-seven cents, shall be sued for and recovered with costs of suit, by action of debt, case, bill, plaint or information, in any court of record within this state; and that all the fines, forfeitures, penalties, sum and sums of money received by the master warden or wardens, by virtue of this act, and not otherwise appropriated, shall be by them respectively paid to the state treasurer, once in every three months, for the special use and purpose of paying off the rent, salaries and other incidental expenses arising from the due execution of this act, and all other expenses, costs and charges which have accrued, by the execution of the several acts respecting the wardens of the port of Philadelphia; and to this end all the said fines, forfeitures, penalties, sum and sums of money so as aforesaid to be paid to the said treasurer in pursuance of this act, shall remain in the hands of the said treasurer, especially appropriated for the purpose, and subject to the drafts of the said master warden or board of wardens, for all or any of the purposes aforesaid, and for no other use or purpose whatsoever; and to the end and intent that fair and just accounts shall be kept, and settlements made by the said wardens, of all their transactions in pursuance of this act, and they are hereby enjoined and required, to exhibit true and just accounts of them once in three months to the register-general, who is hereby authorized and required to settle and adjust the same, in like manner as other accounts are settled by him, agreeably to the laws

of this commonwealth, subject to the like appeal, security, trial and costs, as in other cases of appeal from any settlement made before him, and in like manner to proceed and recover such balance or balances, as on such settlement or settlements shall be found due from them or any of them.

Section XXXVII. (Section XXXVII, P. L.) And be it further enacted by the authority aforesaid, That such law or laws of this commonwealth, as are by this act supplied, be and the same are hereby repealed and made void.⁽¹⁾

Approved March 29, 1803. Recorded in L. B. No. 9, p. 152.

Note ⁽¹⁾. See Chapter 2504; Act April 2, 1804; *infra* this volume, p. 844; also Chapter 2591; Act April 1st, 1805, *infra* this volume, p. 1020; also Chapter 3341; Act March 20th, 1811, 19 Statutes at Large, p.

CHAPTER MMCCCLXX.

AN ACT AUTHORIZING THE SECRETARY OF THE LAND OFFICE AND THE ATTORNEY GENERAL, TO RECOVER THE FEES DUE ON WARRANTS AND PATENTS REMAINING IN THE LAND OFFICE.

Whereas it appears that there are a number of warrants and patents completed, and remaining in the office of the secretary of the land office of Pennsylvania, on which the purchase-money has been paid in full to the commonwealth, and the said warrants and patents signed and sealed, and that there are yet considerable sums of money due thereon as office fees, and the owners or possessors thereof at this time generally unknown: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the secretary of the land office shall from time to time hereafter, make out a list of all the warrants and patents in his office, which shall have been completed and lying in his office for the term of six months, with the amount of office fees due and unpaid thereon, and advertise the same in one of the public newspapers printed in the city of Philadelphia, Lancaster, Northumberland and Pitts-

burgh, at least three weeks, calling on the owner or owners thereof respectively, and also the actual owner and owners, and possessor or possessors of said land, to come forward within three months after the same shall have been so as aforesaid advertised, and pay and discharge the office fees thereon due to the state; and if the said owner or owners as aforesaid, or possessor or possessors of the said land, shall refuse or neglect to pay and discharge the respective fees so as aforesaid due and unpaid, within the time limited and appointed as aforesaid, it shall be the duty of the said secretary of the land office, to forward a certified schedule of all and every of the said warrants and patents, with the respective fees due thereon, to the attorney general of the said commonwealth, who shall thereupon institute suits at law against the several owners, as aforesaid, or possessor or possessors of said land in the name of the commonwealth, for the recovery of the said office-fees; and if it shall appear that any or either of the said owner or owners as aforesaid, cannot be found within the said commonwealth, or that there is no person or persons in the possession of the said land, then it shall be the duty of the said attorney general, to proceed by leaving a summons nailed up in some public place on or near the premises ten days before the return day thereof; and if upon the return of the service of the summons as aforesaid, the owner or owners as aforesaid, or other persons actually possessing the land shall not appear and answer to the suit, judgment shall be rendered for the amount of the fees due thereon as of default; and he shall thereupon proceed to sell at public sale, all or any part or parts of the said land, or so much thereof as may be necessary to pay the said office fees thereon due, together with all the expenses of advertising and costs of prosecution.

Approved March 29, 1803. Recorded in L. B. No. 9, p. 175.

CHAPTER MMCCCLXXI.

A SUPPLEMENT TO THE ACT ENTITLED, "AN ACT FOR THE RELIEF
OF THE ESTATE OF SARAH CALDWELL."

Whereas the legislature by an act passed the twenty-ninth day of March, one thousand eight hundred and two,⁽¹⁾ did authorize the state treasurer for the time being, to transfer, or cause to be transferred, the capital amount of certain United States certificates, held by the state, in trust, for the representatives of Sarah Caldwell, to Thomas Leiper, as administrator of said estate: And whereas doubts are entertained, whether the said treasurer is by the said act authorised to pay over to the said Thomas Leiper, the administrator as aforesaid, the amount of the principal received by the state from the United States, upon the certificates held by the state, in trust as aforesaid: Wherefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the state treasurer for the time being, shall if so required, pay or cause to be paid to Thomas Leiper, as administrator of the estate of Sarah Caldwell, all such instalments of principal as have been received by the state, from the United States, upon the stock subscribed and held in trust for the representatives of Sarah Caldwell as aforesaid.

Approved March 29, 1803.- Recorded in L. B. No. 9, p. 177.

Note (1) Chapter 2270; Supra this volume, p. 106.

CHAPTER MMCCCLXXII.

AN ACT ENABLING CERTAIN TRUSTEES TO SELL AND DISPOSE OF
THE REAL ESTATE OF DAVID HAYES, A LUNATIC.

Whereas it appears by the proceedings had in the court of common pleas of the county of Chester, that a certain David Hayes, of the said county, has been adjudged a lunatic, and that Caleb Swayne, Samuel Swayne, junior, and Thomas Chalfant, were by said court appointed trustees to take care of the

person and estate of the said David Hayes: And whereas the said trustees, together with sundry relations and neighbors of the the said lunatic, have represented to the legislature that his real estate is in want of repairs, and consequently unproductive, that if repaired it would not rent for a sum sufficient to maintain the said lunatic, and repay the interest of the monies which must necessarily be borrowed to make the said repairs, and that it would be more for the interest of the said lunatic and his heirs, that the said estate should be sold: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Caleb Swayne, Samuel Swayne, junior, and Thomas Chalfant, or a majority of them, to sell and convey to any person or persons willing to purchase the same, all the real estate of David Hayes a lunatic, or such part or parts thereof, as to them may appear proper and necessary, for the maintenance and support of the said lunatic, and to enable them to provide for his subsistence and clothing, and make the purchaser such deeds or other assurances, as will assure and convey to the said purchaser or purchasers, all the right, title and interest which the said lunatic hath in such real estate: Provided, that the said Caleb Swayne, Samuel Swayne, junior, and Thomas Chalfant, or a majority of them, shall before they proceed to sell or convey the whole, or any part of the estate of David Hayes, enter into recognizance with sufficient security, before the court of common pleas of Chester county, where said estate lies, that all the money arising from the sales authorised by this act, shall after paying the debts, be so disposed of by them, as will be most for the interest of the said David Hayes, and his heirs.

Approved March 30, 1803. Recorded in L. B. No. 9, p. 178.

CHAPTER MMCCCCLXXIII.

A SUPPLEMENT TO THE ACT ENTITLED "AN ACT TO PREVENT THE EXPORTATION OF BAD OR UNMERCHANTABLE STAVES, HEADING, BOARDS AND TIMBER." (1)

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That no staves shall be deemed as merchantable and fit for exportation, which are not three inches wide, and otherwise conformable to the act to which this is a supplement.⁽¹⁾

Approved March 30, 1803. Recorded in L. B. No. 9, p. 172.

Note (1). Chapter 439; 5 Statutes at Large, p. 400.

CHAPTER MMCCCLXXIV.

AN ACT TO ERECT CERTAIN PARTS OF WESTMORELAND AND LYCOMING COUNTIES, INTO A SEPARATE COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That those parts of the counties of Westmoreland and Lycoming, included within the following boundaries, viz. Beginning at the corner of Armstrong county on the Kiskiminetas river; thence up said river to the mouth of Conomauch river; thence up said river to the line of Somerset county; thence a straight line to the canoe-place on the west branch of Susquehanna; thence a north course along Potter's district line twelve miles; thence a due west course to Armstrong county line; thence along said line to the place of beginning; be and the same is hereby erected into a separate county, to be henceforth called Indiana county, and the place of holding the courts of justice in and for said county, shall be fixed by the legislature, at any place at a distance not greater than four miles from the centre of the said county, which may be most beneficial and convenient for said county; and the governor is hereby empowered and required to ap-

point three commissioners, any two of whom shall run, ascertain and plainly mark, so much of the boundary lines of the county of Indiana as is hereinafter described, before the first day of October next; beginning on the line of Somerset county on the Conomauch river, from thence to the canoe-place on the west branch of Susquehanna river, and from thence to Armstrong county line; and the commissioners shall receive as a full compensation for their services therein, the sum of two dollars for every mile so run and marked, to be paid out of the monies which shall be raised for the uses of the said county of Indiana.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners to be appointed by the governor, for the purpose of running and marking the lines of said county of Indiana, shall also ascertain, and particularly describe the centre of said county, and make report, to the trustees herein after named, to take proposals for the conveyance of lands for county uses; and the said commissioners shall be allowed a reasonable compensation for their services in ascertaining the centre of the said county of Indiana.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That for the present convenience of the inhabitants of the said county of Indiana, and until an enumeration of the taxable inhabitants of the said county shall be made and it shall be otherwise directed by law, the said county of Indiana, shall be, and the same is hereby annexed to the county of Westmoreland; and the jurisdiction of the several courts of the county of Westmoreland and the authority of the judges thereof, shall extend over, and shall operate and be effectual within said county of Indiana.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That William Jack, James Parr and John Pomroy, of Westmoreland county, are hereby appointed trustees for the said county of Indiana, with full authority to receive proposals in writing from any person or persons, or any bodies corporate or politic, for the granting or conveyance of any lands within the said counties respectively,

and within the limits hereinbefore described, for fixing the place of holding the courts of justices in the said county, and when the place for holding the courts of justice in the said county shall be fixed by the legislature, to take assurance in the law, for the lands contained in any such proposals, which shall or may be accepted of under the same trusts and for the sole use and benefit of the said county.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That as soon as it shall appear by an enumeration of the taxable inhabitants within the county of Indiana, that the said county, according to the ratio which shall then be established for apportioning the representation among the several counties of this commonwealth, shall be entitled to a separate representation, provision shall be made by law, apportioning the said representation, and enabling such county to be represented separately, and to hold the courts of justice at such place in the said county, as hereafter may be fixed for holding the same by the legislature, and to choose their county officers, in like manner as the other counties of this commonwealth may or can do.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the commissioners of the county of Westmoreland, shall have power, and they are hereby authorized, to assess and levy county rates and levies, for county uses and purposes, in the county of Indiana; and the said commissioners and treasurer of the county of Westmoreland, shall open an account for the county of Indiana, from which such rates and levies shall be raised and collected; and shall pay out of the monies raised and collected in the said county of Indiana, all the expenses of assessing, levying and collecting the same therein, together with the expenses of running the boundary lines of the said county, and the expenses of ignoramus bills, and other costs of prosecution chargeable to the county, which shall be exhibited against persons residing and inhabiting within the said county; and also all rewards for wolf-scalps and animals of prey destroyed in the said county, for which a reward is or shall be given by law; and that the remainder or surplus thereof; shall be ap-

plied to and for the use of the county of Indiana; and that all the county taxes which have been or shall be assessed for the current year, by the commissioners of Westmoreland and Lycoming counties, shall be and remain for the use of the county, in which such sum is or shall be assessed.

Approved March 30, 1803. Recorded in L. B. No. 9, p. 179.

CHAPTER MMCCCLXXV.

AN ACT GRANTING TO PETER SMITH AND ELIZABETH HIS WIFE, THE DONATION LAND TO WHICH NICHOLAS UNGERMAN, A SOLDIER IN THE FOURTH PENNSYLVANIA REGIMENT, WAS BY LAW ENTITLED.

Whereas it appears to the legislature that Nicholas Unger-
man, late a sergeant in captain John Mearse's company, be-
longing to the fourth Pennsylvania regiment, commanded by
colonel William Butler, on or about the month of September,
in the year of our Lord, one thousand seven hundred and
seventy-nine, was killed by the Indians in the expedition com-
manded by general Sullivan; and that the said Nicholas Unger-
man had no relatives in this country other than his now aged
mother Elizabeth, who during the infancy of the said deceased,
intermarried with Peter Smith, now of Northumberland
county, with whom the said Nicholas lived until the time of his
enlistment in the company aforesaid: And whereas the said
Peter Smith, by his petition, hath requested that the donation
land to which his said step-son Nicholas was by law entitled,
may be granted in fee to him the said Peter and Elizabeth his
wife: And whereas it appears reasonable to extend to the aged
and indigent mother and step-father of the said Nicholas, those
favors due to him which his death in defence of his country
prevented him from enjoying: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate
and House of Representatives of the Commonwealth of Penn-
sylvania, in General Assembly met, and it is hereby enacted
by the authority of the same, That the donation land to which
the said Nicholas Ungerman was entitled by virtue of any law
or laws of this commonwealth, made in this behalf for the

benefit of the line of this state, in the revolutionary army of the United States, be and the same is hereby granted in fee to the said Peter Smith and Elizabeth his wife; and the proper officers of the land office are hereby directed and required in due form of law, to issue a patent or patents for the same to the said Peter Smith and Elizabeth his wife.

Approved April 11, 1803. Recorded in L. B. No. 9, p. 182.

CHAPTER MMCCCLXXVI.

AN ACT TO AUTHORIZE THE COMMISSIONERS OF NORTHUMBERLAND COUNTY, TO SELL AND CONVEY IN FEE SIMPLE, A CERTAIN LOT IN THE BOROUGH OF SUNBURY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Flavel Roan, Solomon Markley and David Taggart commissioners of the county of Northumberland, or their successors in office, be and they hereby are authorized and empowered, by public auction to sell and convey in fee simple, the lot numbered thirteen, in the general plan of the town of Sunbury, in the county aforesaid, and the old jail, court-house and all other buildings and improvements thereon erected, together with all and singular the appurtenances thereunto belonging or in any wise appertaining, and to apply the proceeds of such sale to the uses and purposes to which county rates and levies are applied: Provided always, that before any such sale shall be made, at least thirty days previous notice thereof shall be given in some newspaper published in the county aforesaid.

Approved April 11, 1803. Recorded in L. B. No. 9, p. 184.

CHAPTER MMCCCLXXVII.

AN ACT AFFORDING COMPENSATION TO BENJAMIN ALEXANDER, THOMAS M'MILLAN AND OTHERS, FOR ASCERTAINING THE CENTRE OF MERCER COUNTY.

Whereas by an act, entitled "An act to erect certain parts of Allegheny, Westmoreland, Washington and Lycoming counties, into separate counties," passed the twelfth day of March, one thousand eight hundred,⁽¹⁾ a certain part of the county of Allegheny was erected into a county district, called Mercer county, and in and by the third section of said act, provision made that the place for holding the courts of justice should be fixed within five miles of the centre of said county: And whereas by the act to which this is a supplement, passed the sixth day of April, one thousand eight hundred and two,⁽²⁾ the governor was authorised and required to appoint five commissioners, whose duty it should be inter alia, to view and determine on the most eligible and proper situation for erecting the public buildings within the limits aforesaid, in said county: And whereas no provision was made in either of the aforesaid acts, for defraying the expenses to be incurred in ascertaining the centre of said county, and which has since that period been ascertained by Benjamin Alexander, Thomas M'Millan and others, before the said commissioners could proceed to make their report, for which services it appears by the petition of the said Alexander and M'Millan they have not received any compensation: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of the county of Crawford, (or any two of them) be and they are hereby authorized and required to adjust and settle the accounts of Benjamin Alexander, Thomas M'Millan and others, necessarily employed in ascertaining the centre of the

county of Mercer, allowing them a reasonable compensation for their services and expenses therein, to be paid by the treasurer of the county of Crawford out of any monies which have been or may be assessed, levied and collected within the county of Mercer.

Approved April 11, 1803. Recorded in L. B. No. 9, p. 184.

Note (*). Chapter 2130; 16 Statutes at Large, p. 454.

Note (*). Chapter 2296; Supra this volume p. 146.

CHAPTER MMCCCLXXVIII.

AN ACT DECLARING THE WEST AND WESTERN MOST BRANCHES OF SCHUYLKILL, IN THE COUNTY OF BERKS, PUBLIC HIGHWAYS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the west branch of Schuylkill from its junction with the north branch up the same to Thomas Reed's saw-mill, and thence five miles higher up said stream; and the westernmost branch from its junction with the last mentioned stream, six miles up the same, shall be and the same are hereby declared to be public highways, under the limitations and restrictions hereinafter specified; and it shall and may be lawful for any person desirous of improving or using the navigation of said west or westernmost branches of Schuylkill to remove thereout all obstructions except mill-dams already built, at which dams the persons aforesaid, shall have full power to make slopes thereon, and keep the same in repair for ever for the passage of rafts.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That nothing in this act contained, shall be deemed, taken or understood to prevent any person or persons possessing lands on said west or westernmost branches of Schuylkill, who before the passing of this act had authority under the law of this commonwealth to erect a dam, from erecting any such dam or dams, that he, she or

they may think proper: Provided always, that every such dam be so constructed with a proper slope or slopes, erected in the most convenient parts thereof, so that rafts may not be obstructed in passing down the said waters; which slope shall be at least thirty-five feet wide, and be one foot lower than the other parts of such dam, the surface whereof shall be made of wood or other materials well compacted together, so that none of the water may be lost in passing down the same; and for every foot such slope shall be in height it shall extend fifteen feet down the stream.

Approved April 1, 1803. Recorded in L. B. No. 9, p. 186.

CHAPTER MMCCCLXXIX.

A FURTHER SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO ESTABLISH THE JUDICIAL COURTS OF THIS COMMONWEALTH" (*).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the president and judges of the court of common pleas in the county of Chester shall be authorised and they are hereby required, to hold two additional courts of common pleas in the said county, for trying and arguing civil causes, and for doing and transacting all other business usually done and transacted in the said court, which courts shall continue each one week, and commence respectively on the first Monday in April, and on the third Monday in October annually.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue in force until the first day of May, Anno Domini, one thousand eight hundred and six.

Approved April 1, 1803. Recorded in L. B. No. 9, p. 187.

Note (*). Chapter 1575; 14 Statutes at Large, p. 110.

CHAPTER MMCCCLXXX.

AN ACT CHANGING THE APPROPRIATION TO IMPROVE THE ROAD
FROM TURTLE CREEK TO PITTSBURGH.

Whereas the legislature by an act, entitled "An act making provision for opening and improving a road over the Penn's valley mountains, in the county of Mifflin, and for opening and improving the state road from Turtle creek to Pittsburgh," passed the eleventh day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ did appropriate one thousand dollars for the purpose of opening and improving that part of the state road that lies between Turtle creek and Pittsburgh, which sum of money has not yet been expended: And whereas it has been represented to the legislature that a good road cannot be made, on the ground on which it was originally laid out, and that improvements are necessary on that part of the road now in use, between the house of Joseph Springer and Pittsburgh: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the sum of one thousand dollars, appropriated by the aforesaid recited act, shall be expended in, and the same is hereby appropriated to the improvement of that part of the road (now in use) from Bedford to Pittsburgh, and situate and extending between the house now occupied by Joseph Springer, in Allegheny county, and Pittsburgh; and to be paid out of the arrearages of state taxes due to the commonwealth from the county of Westmoreland, on a warrant or warrants of the governor for that purpose drawn on the treasurer of said county, and to be applied to the improvement of said road: Provided always nevertheless, that the said treasurer shall not pay the said money before the completion of the work contracted to be done on

said road, and that when paid he shall have a credit in the settlement of his accounts with the comptroller general of this commonwealth, on producing the said warrant or warrants, with receipt or receipts for the payment of the same.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the governor be, and he is hereby authorized and empowered, to contract with individuals or with companies, for opening and improving the aforesaid recited road, from the house of Joseph Springer, to Pittsburgh, on or as near the road now occupied as the ground will admit, in such manner as to him shall appear most likely to accomplish the good purposes intended by this act.

Approved April 1, 1803. Recorded in L. B. No. 9, p. 183.

Note (*). Chapter 2079; 16 Statutes at Large, p. 323.

CHAPTER MMCCCLXXXI.

AN ACT TO PROVIDE FOR REDUCING AND LIMITING THE NUMBER OF ASSOCIATE JUDGES OF THE COURTS OF COMMON PLEAS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, not more than three associate judges shall be commissioned in any county hereafter to be organized; and if a vacancy shall happen in the office of associate judge in any county within this commonwealth, by death, resignation or otherwise, the number of the judges of the said county where such vacancy shall happen shall be reduced; and there shall be no more than three associate judges in the said county, and the office so become vacant shall henceforth be abolished.

Approved April 1, 1803. Recorded in L. B. No. 9, p. 189.

CHAPTER MMCCCLXXXII.

AN ACT FOR ALTERING THE PLACE OF HOLDING ELECTIONS IN THE FIFTH DISTRICT, IN THE COUNTY OF LANCASTER.

Whereas it has been represented to the legislature, by petition from the inhabitants of part of Cocalico and Elizabeth townships, which composes the fifth district in the county of Lancaster, that the place of holding their elections is uncentral and inconvenient:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the citizens of the fifth district in the county of Lancaster, shall from and after the passing of this act, hold their general elections at the house now occupied by Nathaniel Lightner, in the township of Cocalico in the district aforesaid, any thing to the contrary thereof in any former law notwithstanding.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the citizens of that part of the township of Warwick, in the county of Lancaster, beginning at the township line at a bridge on Forge creek, where the same intersects or crosses the old Paxton road; thence extending down the said creek to Christian Stauffer's mill; along the road leading from said mill to Lancaster, till the same strikes Moravian creek, commonly so called; thence down the said creek to John Pfauts's mill; thence along the road called Pfaut's new Lancaster road to the place where the same intersects the township line; thence along said line to Conestoga creek, and up the same and Cocalico and Middle creek; and the said Paxton road being the township line continued to the first mentioned creek and place of beginning, shall from and after the passing of this act, hold their general elections at the house now occupied by Nathaniel Lightner, in the fifth election district, in the township of Cocalico, in the county aforesaid, any thing to the contrary thereof in any former law notwithstanding.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the citizens of that part of the fifth election district in the county of Lancaster, beginning at Miller's tavern and extending along a public road to Cocalico creek near Ephrata mill, and from thence down the said creek to the line of Earl township, shall be annexed to the ninth election district, and hold their elections at the house now occupied by Jacob Stahley, in Reamstown, in the township of Cocalico, any thing to the contrary thereof in any former law notwithstanding.

Approved April 1, 1803. Recorded in L. B. No. 9, p. 190.

CHAPTER MMCCCLXXXIII.

AN ACT AUTHORIZING THE JUDGES OF THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY, TO HOLD TWO ADDITIONAL COURTS ANNUALLY, IN THE SAID COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the judges of the courts of common pleas in the county of Northampton, shall be authorised and required, to hold two additional courts of common pleas in the said county, for trying and arguing civil causes, and for doing and transacting all other business usually done and transacted in the said court; which courts shall continue each one week, and commence respectively on the third Monday in March, and on the third Monday in October annually.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue in force until the first day of April, in the year one thousand eight hundred and six.

Approved April 1, 1803. Recorded in L. B. No. 9, p. 192.

CHAPTER MMCCCLXXXIV.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO COMPLETE THE BENEVOLENT INTENTION OF THE LEGISLATURE OF THIS COMMONWEALTH, BY DISTRIBUTING THE DONATION LANDS TO ALL WHO ARE ENTITLED THERETO." (1)

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, that the sixth section of the act entitled "An act to complete the benevolent intention of the legislature of this commonwealth, by distributing the donation lands to all who are entitled thereto," passed the second day of April, one thousand eight hundred and two,⁽¹⁾ be and the same hereby is extended and continued in full force for and during the term of one year, and no longer.

Approved April 1, 1803. Recorded L. B. No. 9, p. 192.

Note (1). Chapter 2287; Supra this volume p. 131.

CHAPTER MMCCCLXXXV.

AN ACT SECURING TO MECHANICS AND OTHERS PAYMENT FOR THEIR LABOR AND MATERIALS IN ERECTING ANY HOUSE OR OTHER BUILDING WITHIN THE CITY OF PHILADELPHIA, THE DISTRICT OF SOUTHWARK AND THE TOWNSHIP OF THE NORTHERN LIBERTIES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all and every dwelling-house or other building hereafter constructed and erected, within the city of Philadelphia, the district of Southwark and the township of the Northern Liberties, shall be subject to the payment of the debts contracted by the owner or owners thereof, for or by reason of any work done, or materials found

and provided by any brickmaker, bricklayer, stone-cutter, mason, lime-merchant, carpenter, painter and glazier, iron-monger, blacksmith, plasterer and lumber merchant, or any other person or persons employed in furnishing materials for, or in the erecting and constructing such houses or other building, before any other lien which originated subsequent to the commencement of the said house or other building; but if such house or other building should not sell for a sum of money sufficient to pay all the demands for work and materials, then and in such case the same shall be averaged, and the said creditors paid an equal sum or proportion in the dollar: Provided always, that no such debt for work and materials shall remain a lien on the said houses or other buildings, longer than two years from the commencement of the building of the same; unless an action for the recovery thereof be instituted, or the claim filed, within six months after performing the work or furnishing the materials aforesaid, in the office of the prothonotary of the county where such houses or other buildings lie.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That this act shall be and continue in force for three years from the passing thereof, and from thence to the end of the next session of the general assembly, and no longer.

Approved April 1, 1803. Recorded in L. B. No. 9, p. 193.

CHAPTER MMCCCLXXXVI.

AN ACT FOR ESTABLISHING AN HEALTH OFFICE, AND TO SECURE THE CITY AND PORT OF PHILADELPHIA FROM THE INTRODUCTION OF PESTILENTIAL AND CONTAGIOUS DISEASES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That a board of health shall be established in the manner hereinafter directed, which shall be and hereby is erected into a body corporate, in deed and

in law, by the name, style and title, of "The Board of Health;" who shall have perpetual succession, and enjoy all and every the rights, liberties and privileges, powers, authorities and immunities incident or belonging to a corporation or body politic, and shall moreover have and exercise the powers and authorities hereinafter mentioned; that is to say, the governor of this commonwealth shall on or before the first day of May next, commission and appoint five persons, three of whom shall be resident in the city of Philadelphia, one in the Northern Liberties, and one in the district of Southwark and township of Moyamensing, who shall compose the said board of health, and shall continue in office one year, next ensuing the date of their appointment, but not more than two of the said board shall be physicians; they shall receive four hundred dollars each, per annum, as a compensation for their services, and in case of the death, sickness, resignation, refusal to serve, or removal from office of all or any of them, their places shall be supplied by other appointments; out of their own body, the board shall choose a president, who shall preside at the meetings of the board, and whose place shall be supplied in his absence by the appointment of a chairman, for the time; a secretary whose duty it shall be to keep fair minutes of all the proceedings, rules and regulations of the board, and a treasurer who shall give bond with sureties, as is required of the county treasurer, who shall receive all monies belonging to the corporation, and pay and disburse the same upon the order of the board, signed by the president and attested by the secretary, who shall keep fair and just accounts of his receipts and expenditures, shall make extracts thereof whenever the board shall require the same, and shall once in every year, his accounts having been allowed by the board, publish the same in one or more of the public newspapers of the city of Philadelphia; and the said board shall sit upon their own adjournment, as they shall find necessary, but shall meet at least once in every day, between the first day of May and the first day of November in every year; and also when the board shall be specially convened by order of the president, or any two of the members; and at all meetings,

three members shall form a board to transact business, but a less number may adjourn; and the said board shall have and hereby is vested with full power and authority to make general rules, orders and regulations for the government and management of the lazaretto, and the vessels, cargoes and persons there detained under quarantine, and of the health office and public hospitals; and for the mode of visiting and examining vessels, persons, goods and houses; and shall also have power to appoint such other officers and servants, as from time to time shall be found necessary, to perform the several duties required by this act, and their future regulations: Provided, that such officer shall not hold any office of profit or trust under the United States; and to remove any of the officers or servants by them appointed, and appoint others in their places; and to allow and pay the said officers and servants so appointed, such compensation for their respective services as the said board shall deem just and proper; and the governor is hereby authorized and required to appoint one physician, who shall reside at the lazaretto, and shall be denominated the lazaretto physician, and one physician who shall reside in the city of Philadelphia, and who shall be denominated the hospital physician, one health officer, and one quarantine master, all of whom shall be under the direction and control of the board of health, and may be removed from office by the governor at the request of the majority of the members of the board of health; and the said lazaretto physician shall be entitled to occupy the house hitherto occupied by the resident physician, and to have furnished him pasturage, provender and stabling for one horse and one cow, and also to such vegetables as may be necessary to supply his table while residing at the lazaretto, from the garden there; and the quarantine master shall be entitled to occupy the house hitherto occupied by the quarantine master, and to have furnished him pasturage, provender and stabling for one horse and one cow, and also to such vegetables as may be necessary to supply his table whilst residing at the lazaretto, from the garden there.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the health officer on receiving from the captain or master of any ship or vessel, arriving from a foreign port or place, the certificate as hereinafter directed to be furnished by the lazaretto physician and quarantine master or hospital physician, shall be entitled to receive from such captain or master the sum of six dollars and no more; of which the lazaretto physician shall have three dollars, and the hospital physician, the quarantine master and health officer one dollar each, in full compensation for all services enjoined on them by this act.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the buildings now called the lazaretto, and the ground therewith reserved and occupied, and all the property and estate of every kind whatsoever, now vested in the present board of health, shall become and be fully vested in the board of health constituted by this act, immediately and as soon as the same shall be organized for the uses and purposes for which the said board is instituted and established, and the same shall be fully and entirely under the direction and management of the said board; and the said board shall have power to erect such buildings on the lot or tract adjoining the lazaretto, as to them may seem necessary and proper, for the accommodation of the seamen and passengers who may arrive at the lazaretto station in health, during the performance of such quarantine, or during such detention as may be enjoined by this act: Provided, that the cost of such buildings shall not exceed in the whole, ten thousand dollars.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That every ship or vessel coming from any foreign port or place, bound to the port of Philadelphia, between the first day of May and the first day of November in every year, shall come to anchor in the river Delaware, as near to the lazaretto as the draft of water and weather will allow, before any part of the cargo or baggage be landed, or any person who came in such ship or vessel shall leave her; or any person be permitted to go on board;

and shall submit to the examinations hereinafter directed; and if any master, commander or pilot, shall leave his station before the said lazaretto; or if any master or commander shall permit or suffer, any part of the cargo or baggage, or any person or persons arriving in such ship or vessel, from any port beyond the limits of the United States, to be landed on either shore of the Delaware bay or river; or suffer any person except the pilot to come on board, before such examination be duly had and a certificate obtained, as is hereinafter specified, the person or persons so permitting, and the person or persons so landing or going on board, unless imminent danger of the loss of the vessel or lives of the crew, shall render assistance necessary, being thereof convicted, upon indictment or prosecution under this act, by verdict, confession or standing mute, in any court having jurisdiction of the offense, shall pay a fine not exceeding five hundred dollars, to be recovered and appropriated as is hereinafter directed: And it shall be the duty of the lazaretto physician and the quarantine master, so soon as any ship or vessel shall be anchored near the lazaretto, between sunrise and sunset, immediately, wind and weather permitting, to go on board the same, and there thoroughly examine in such form and manner as shall be prescribed by the board of health the said ship or vessel, the crew, passengers, cargo and baggage on board the same; and to demand answers under oath or affirmation, to be administered by either the said physician or quarantine master, who are severally hereby empowered to administer the same, to all such questions as shall be put to any person on board such ship or vessel, touching the health of the crew and passengers during the voyage, and the nature and state of the cargo as the board of health by their rules shall from time to time direct to be asked; but it shall be the duty of the person so examining upon oath or affirmation, before he shall proceed therein, to make known to the person interrogated, the penalty imposed by this act upon the person who shall give false answers, under oath or affirmation to the questions proposed in such examination; and if upon such examination it shall appear to the said physician and quar-

antine master, that the said ship or vessel came from a port or place, at which no malignant or contagious disease prevailed at the time of her departure, that the persons on board the same are free from every pestilential or contagious disease, the smallpox and measles excepted, and that the said vessel has had no malignant disease on board, either during the homeward or outward bound voyage, or during her continuance in a foreign port, and they shall see no cause to suspect that the cargo or any part thereof is infected, they shall forthwith deliver to the master or captain of such ship or vessel, a certificate of the facts, in such form as shall be directed by the board of health; and the said captain or master may thereupon proceed according to his destination, and shall present such certificate at the health office in Philadelphia, within twenty-four hours after his arrival and safely mooring there: but if it shall appear to the said physician and quarantine master upon such examination, that the ship or vessel came from a port or place at which a malignant or contagious disease prevailed, the said ship or vessel shall be detained at the lazaretto for the space of twenty days; and the letter bag of the vessel when purified, and such letters as the master, commander or passengers shall think proper to write to their owners, consignees or friends, shall be transmitted to the health officer in Philadelphia, who shall safely deposit the same in the post-office; and the vessel and cargo shall be thoroughly cleansed, and all clothing and baggage shall be aired and purified, at the expense of the master, owners or consignees of the vessel, and the goods respectively: Provided always, that wine, rum, salt, sugar, spirits, molasses, mahogany, manufactured tobacco, dyewood, preserved fruits, and such other articles as the board of health shall by their general regulations specify and permit, may be conveyed immediately to the city in lighters; and at the expiration of such quarantine, if it shall appear to the said physician and quarantine master, that no person has been sick with a malignant or contagious disease, the smallpox and measles excepted, on board said ship or vessel either during the voyage outward or homeward, or during her con-

tinuance in a foreign port, nor any of the crew or passengers, or other person from on board such vessel, during the performance of quarantine, and the said physician and quarantine master shall certify the said facts to the board of health, and that in their opinion, the vessel, crew, cargo and passengers may be safely suffered to proceed to the city, the said captain or master may proceed with the same according to his destination; unless the board of health shall deem it necessary to cause a further detention of the said vessel or cargo, or of the crew or passengers, or of any baggage on board said vessel; in which case the same shall be detained, until the board of health shall authorize the same to proceed and enter the city; and upon the arrival of the said captain or master at Philadelphia, he shall present the said certificate of the physician and quarantine master, at the health office, within twenty-four hours after his arrival; but if upon examination of any vessel by the said physician and quarantine master as aforesaid, or during the performance of quarantine by any vessel, it shall appear to the said physician and quarantine master that there has been any person sick on board said vessel, with any malignant or contagious disease, either during the voyage outward or homeward, or during the continuance of the vessel in a foreign port, or during the performance of quarantine at the lazaretto; or that any person from on board such vessel has been affected with such disease; then in such case the vessel shall not be suffered to proceed to the city until after the first day of November then next ensuing; and the cargo and baggage, except such part thereof as in the opinion of the board of health may be supposed incapable of retaining infection, which said part may be transported to the city in lighters, shall be unladen and thoroughly cleansed and purified and the crew and passengers which were on board said vessel, and the cargo and baggage on board the same, or any part thereof, except as before excepted, shall not be suffered to enter the city before the first day of November, then next ensuing, without the license and permission of the board of health to that effect first had and obtained: Provided nevertheless, that such vessel or ship after

she shall have been thoroughly cleansed and purified, if no malignant disease appear on board, may be allowed to take in freight at the lazaretto by means of lighters and proceed to sea; and if any master or captain or other person on board of any vessel, which shall be examined agreeably to this law, shall not true answers make, to all such questions as the said lazaretto physician and quarantine master, or the said health officer or hospital physician shall ask agreeably to this act; or the rules which shall from time to time be established by the board of health; or shall knowingly deceive or attempt to deceive the proper officers as aforesaid, in his answers to their official enquiries; he having been duly informed and apprised of the penalties imposed by this act, upon the person so offending, previous to his said examination, by the person making such examination; such person for each and every such offense, on being thereof legally convicted, shall forfeit and pay a sum not exceeding five hundred dollars, to be recovered and appropriated as is hereinafter provided and directed; and shall moreover be sentenced to imprisonment at hard labor, for any term not less than one year, and not exceeding five years. And if any captain or master of any ship or vessel, shall neglect to present his certificate at the health office, in any case in which he is hereinbefore directed so to do, within the time directed by this act, he shall forfeit and pay the sum of three hundred dollars, to be recovered and appropriated as hereinafter directed; and if any captain or master of any ship or vessel, or any other person on board the same, shall refuse or neglect to comply with the directions of the lazaretto physician and quarantine master, which shall be made agreeably to this act, or the regulations of the board of health, with respect to the detention of any ship or vessel, or the landing from on board the same, of any person or persons, or of any goods, merchandise, bedding, baggage or clothing; or shall refuse to carry the same into effect; such person for each and every such offense, shall forfeit and pay a sum not exceeding five hundred dollars, nor less than two hundred dol-

lars, to be recovered and appropriated as is hereinafter provided and directed.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That any ship or vessel coming from any port or place within the United States, at which said port or place the said ship or vessel had only called in, or touched upon her arrival from a foreign port or place, shall be liable and subject to all the rules, regulations and restrictions of the preceding sections of this act; and shall be examined and treated as well the vessel itself, as the cargo, crew, passengers and baggage on board, in the same manner as if such ship or vessel had directly arrived at the lazaretto from a foreign port or place, without having first touched at a port or place within the United States; and all ships or vessels, as well vessels of war as merchant vessels, coming from any port or place within the United States, and bound to the port of Philadelphia, between the first day of May and the first day of November in every year, and having on board any goods or merchandise, the growth or produce of any foreign place or country, or any person or persons, bedding or clothing, from any foreign port or place, shall come to anchor opposite the said lazaretto, and shall be examined by the lazaretto physician and quarantine master; and if the captain or master of any such ship or vessel, shall produce such satisfactory proof, as the board of health shall in that case direct to be required, that the said goods or merchandise have been landed in the United States more than thirty days, and are free from damage, and that the said vessel, bedding, clothing and persons, are free from the infection of any dangerous contagious diseases whatever, then and in that case the said physician and quarantine master, shall give to the captain or master of such ship or vessel a certificate of the facts, permitting such ship or vessel to proceed to the city; which certificate the said captain or master shall present at the health office in Philadelphia, within twenty-four hours after his arrival and safely mooring there; and if he should neglect so to do, being thereof legally convicted under this act, he shall be sentenced to pay a fine of two hundred dollars,

to be recovered and appropriated as is hereinafter directed and provided; and if the said captain or master shall fail to produce such satisfactory proof as aforesaid, of the wholesome state of the said vessel, goods, merchandise, bedding, clothing and persons, the said vessel, goods, merchandise, bedding, clothing and persons, shall be detained at the lazaretto, and shall be proceeded with in the same manner, and subject to the same orders and regulations as are hereinbefore provided and directed in the case of vessels coming directly from a foreign port or place; and if the captain or master of any ship or vessel coming from any port or place within the United States, and bound to the port of Philadelphia, having on board any goods or merchandise, bedding, clothing or persons as aforesaid, shall refuse or neglect to come to anchor opposite the lazaretto, and shall pass the same with intent to proceed to the city, without examination by, and certificate obtained from the said physician and quarantine master as aforesaid, he shall on conviction, forfeit and pay the sum of five hundred dollars, to be recovered and appropriated as is hereinafter provided and directed; and the said vessel, goods, merchandise, bedding, clothing and persons, shall be sent back to the lazaretto there to be proceeded with in such manner as the board of health, agreeably to this act shall in that case devise and direct.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That every ship or vessel coming from the Mediteranean, shall be subject to a strict examination, under similar regulations and penalties as are provided in the fourth section of this act; and if it appears that the said ship or vessel came from any place, where the plague exists, or has spoken with any vessel on board of which any person was affected with the plague; or if any person is affected with the said disease on his arrival at the lazaretto, or has been affected during the voyage; the said vessel shall not be suffered to proceed to the city, the cargo and baggage shall be unloaded, and thoroughly cleansed and purified, and no part shall be suffered to enter the city, without the permission of the board of health first obtained; and the crew

and passengers shall perform a quarantine of twenty days: Provided nevertheless, that such ship or vessel, after she shall have been thoroughly cleansed and purified, may be allowed to take in freight at the lazaretto, by means of lighters, and proceed to sea.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That any person or persons, and all goods, merchandise, bedding and clothing, arriving at any port or place within the United States, from any foreign port or place, at which any malignant or contagious disease, the smallpox and measles excepted, prevailed at the time of their departure, or in any vessel in which any such disease existed, whilst they were on board the same, are hereby prohibited from entering the city or county of Philadelphia, or the county of Delaware, except the township of Tinicum, at any time between the first day of May and the first day of November in any year, either by land or water, without permission of the board of health first had and obtained; under the penalty of five hundred dollars, for each and every offense, and the forfeiture of all such goods, merchandise, bedding or clothing, to be recovered and appropriated as is hereinafter directed.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That no lazaretto physician, quarantine master, or other officer or servant of the said lazaretto, shall absent himself from the place of his duty, between the first day of May and the first day of November, on any pretense, for any time whatsoever, without leave first obtained in writing from the board of health, under the hand of the president or chairman for the time, attested by the secretary, and entered on the minutes; under the penalty of forfeiting his office and a fine of any sum not exceeding five hundred dollars.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the lazaretto physician, immediately on the arrival of any ship or vessel, liable to be detained at the lazaretto, in order to be cleansed and purified as aforesaid, to cause the sick, if

any on board, to be removed to the buildings which shall be appointed by the board of health for their reception; and diligently and impartially, with his best skill, attend upon and administer medical assistance, to each and every sick person that shall be therein lodged; and generally superintend, and cause to be executed, such orders and regulations as the said board from time to time ordain, for the government and management of the lazaretto, and of the vessels, cargoes, and persons under quarantine.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the quarantine master, immediately after the arrival of and examination as aforesaid, of any ship or vessel, liable to be detained at the lazaretto for purification aforesaid, to direct and cause such ship or vessel to be properly moored near the lazaretto; at such distance from any other vessel or vessels under quarantine, as may prevent the communication of any infectious disease to or from the same; and the cargo, bedding and clothing, or any part thereof contained in such ship or vessel, to be landed, cleansed and purified, under the direction of the lazaretto physician; and it shall be the particular duty of the said quarantine master, to prevent any personal intercourse between the persons on board different vessels under quarantine; and for that purpose to take possession of, and secure the boats of such vessels, until their respective terms of quarantine shall be completed; to preserve and enforce order and obedience to this act, and all such orders and regulations as the board of health, shall from time to time ordain, for the government and management of the lazaretto, and the persons, vessels and cargoes under quarantine.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the hospital physician, upon receiving information from the health officer, or other person whomsoever, that any person or persons on board of any ship or vessel, in the port of Philadelphia, is or are afflicted, or suspected to be afflicted, with any pestilential or contagious disease, or that there is just cause

to suspect the cargo, or any part thereof, contained in any such ship or vessel, is infected with any such disease, the said physician, in either of the foregoing cases, shall visit and carefully examine such ship or vessel; and if he shall discover any sick person or persons on board any such ship or vessel, he shall thereupon have and exercise the authority, to direct such sick person or persons to be removed to the said lazaretto; or to some other safe place which may be specified by the board of health; and the said physician shall without delay, report the state of said vessel, cargo and crew to the board of health, who shall direct and determine how the crew, passengers, vessel and cargo shall be disposed of and managed, for the restoration of their health and purification; and on the arrival of any ship or vessel in the port of Philadelphia, from any foreign port or place, from the first day of November in any year, to the first day of May in the next succeeding year, it shall be the duty of the said physician, provided such ship or vessel shall not have been previously visited and examined by the lazaretto physician and quarantine master, and before any of the passengers, crew, cargo or baggage are landed, to visit and carefully examine such ship or vessel, in manner and form as the said lazaretto physician and quarantine master are bound to do; and to demand answers under oath or affirmation, to be administered by the said hospital physician, who is hereby empowered to administer the same; and if the crew, passengers, vessel and cargo be in a healthy state, and if there shall be no ground to suspect that any of the crew or passengers have died in the voyage, of any dangerous contagious disease whatever, or that the cargo, bedding or clothing is infected, then and in such case the said physician, shall give to the master or commander a certificate of the facts, which the said master or commander shall present at the health office within twenty-four hours after such examination; and if he shall neglect so to do, being thereof legally convicted under this act, he shall be sentenced to pay a fine of two hundred dollars, to be recovered and appropriated as hereinafter provided and directed; and if on examination any suspicion shall arise in

the mind of the said physician, touching the health of the crew or passengers, or the infectious state of the vessel, cargo, bedding or clothing on board, no part thereof shall be landed, but the said physician shall immediately report the same to the board of health, who shall direct and determine what measures shall be pursued relative thereto; and the said physician, upon request of the health officer or the board of health, shall from time to time, visit and examine such houses and persons, as the said board or the health officer shall have reason to suspect are infected with any dangerous contagious disease, and make report thereof to the said health officer.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the health officer, at seasonable and proper hours on each day, (Sunday excepted) to open and keep a public office, at such convenient place in the city of Philadelphia as shall be directed by the board of health; whereat all masters or captains of ships or vessels, shall deliver the certificates or bills of health to them granted by the lazaretto physician and quarantine master, or hospital physician as aforesaid; and the board of health shall there assemble, and meet as often as they deem needful, for the purpose of executing the duties and trust of their appointment; and the said health officer shall file and preserve in good order, all the certificates or bills of health so delivered; and shall keep a register of the ships or vessels, and the names of the captains or masters, owners or consignees, for which the same were respectively granted, the port or ports from which the ship or vessel respectively sailed, or at which they touched during their respective voyages, and the number of persons on board thereof respectively, at the time of their leaving their respective ports of departure, and also at the time of their arrival respectively at the port of Philadelphia; and the said health officer shall attend the health office, at the meetings of the board of health, and at such other times as shall be requisite for discharging the duties of his appointment, and generally enforce and execute the regulations and instructions of the board of health; and it shall be the duty of the said health officer to collect,

recover and receive all forfeitures and penalties imposed, and sums of money directed to be paid by this act.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That every diseased person duly landed or sent to the lazaretto, by either of the aforesaid physicians, quarantine masters, or the health officer, shall be kept and maintained, until the lazaretto physician shall grant him or her a discharge in writing; and if, before obtaining a discharge as aforesaid, any such person shall elope or otherwise absent himself or herself from the lazaretto, it shall be lawful for the health officer, or any constable or other person, whom he shall call to his assistance, and they are hereby enjoined and required, to lend such assistance to pursue and apprehend the person so escaping, or absenting himself or herself from the lazaretto, and there again deliver him or her, to be detained until he or she be duly discharged as aforesaid; and moreover the person so eloping and absenting himself or herself, shall, for each and every offense, forfeit and pay the sum of one hundred dollars, or suffer such other punishment by confinement, not exceeding three months, as the board of health shall ordain and award; and if any master or captain shall knowingly receive, or employ on board of his ship or vessel, or if any housekeeper or other inhabitant of this commonwealth, shall knowingly receive, harbor or in any way entertain, any person so eloping or absenting from the lazaretto, each and every master and captain, and each and every housekeeper or inhabitant so respectively offending, shall, on being thereof legally convicted, forfeit and pay a sum of two hundred dollars: And if any person arriving in or belonging to any ship or vessel, detained at the lazaretto as aforesaid, shall elope or absent himself, without having obtained a discharge, signed by the lazaretto physician and quarantine master; or if any person other than those detained at the lazaretto as aforesaid, shall go on board or along side of any ship or vessel, whilst under quarantine as aforesaid; or of any person not authorized by the proper officer, shall go within the limits of the lazaretto, such person or persons shall perform such quarantine as the board of health may direct;

the person so offending upon legal conviction of such offense, shall forfeit and pay the sum of two hundred dollars, to be recovered and appropriated as hereinafter directed: And if any diseased, or other person, landed and sent to the lazaretto, by any officer having authority to do the same, or any person arriving in, or belonging to, any ship or vessel detained at the lazaretto as aforesaid, shall refuse or neglect to obey the directions of the lazaretto physician or quarantine master respectively, agreeably to this act, and the orders and regulations by the board of health, which shall from time to time be ordained and established, for the government and management of the lazaretto, and the persons, vessels and cargoes under quarantine, the person so refusing or neglecting shall, for each and every offense, on being thereof legally convicted, forfeit and pay the sum of two hundred dollars, to be recovered and appropriated as is hereinafter directed.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That when any vessel shall come up to the city of Philadelphia, or the shore of Southwark, or of the Northern Liberties in the river Delaware, although the said vessel may have obtained a certificate of health, from the lazaretto physician and quarantine master, or the hospital physician, if the said vessel shall appear to the board of health to be infected with any contagious disorder, dangerous to the community, the said board are hereby authorized to order the said vessel to the lazaretto, there to undergo the necessary purification, before she shall be permitted to return to the city or shores aforesaid; and the said board are hereby authorized and empowered, to remove any vessel or vessels from such part of the city or shores aforesaid, as shall be infected with such disorders as aforesaid, to such convenient distance as they may deem proper, although such vessels may not be infected.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the messuages and lots commonly called the city hospital, situate on the north side of Sassafras street, and east side of the river Schuylkill, shall continue to be held as a public hospital, for the township

of the Northern Liberties and Moyamensing, as well as for the city and district of Southwark, until the board of health shall procure and provide a more convenient public hospital for the purpose aforesaid; and all persons other than persons on board of any ship or vessel, and liable to be sent as aforesaid to the lazaretto, residing within the city of Philadelphia, the district of Southwark, the townships of the Northern Liberties and Moyamensing, who shall be afflicted with any pestilential or contagious disease (the smallpox and measles excepted) may, upon the advice and order of the hospital physician, or any other physician, or person authorized by the board of health to grant such order, be removed by the health officer and such assistance as he shall for the purpose employ, to the said public hospital; or to such other place as the physician or board of health shall approve; if the person afflicted with any contagious or pestilential disease, cannot be properly and sufficiently attended at home; there to be lodged, nursed and maintained, and kept until duly discharged by a permit in writing signed by a physician of the said public hospital: Provided always nevertheless, that each and every patient, and his or her estate real and personal, shall be liable to pay, satisfy and reimburse all the charges and expense, on his or her account incurred in the said public hospital, unless the board of health award that he or she shall be exonerated or exempted therefrom.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That whenever the said board of health shall receive information, that any contagious disease rages in any port or place within the United States, or on the continent of America, they shall make diligent enquiry concerning the same, and it shall and may be lawful for the said board, to prohibit and prevent all communication by land and water, with such infected ports or places, by stopping all vessels coming into the port of Philadelphia, and at and before the lazaretto, in the same manner, and under the same penalties and forfeitures, as are hereby provided in case of vessels coming from foreign ports; and by stopping all persons coming from such infected places, in such manner

as the circumstances and exigencies of the case shall require; and the said board of health are hereby authorized and required, whenever a fever of a contagious nature shall appear, in any part of the city of Philadelphia, the district of Southwark, or the townships of the Northern Liberties or Moyamensing, to adopt without delay, such prompt measures as will effectually prevent all communication, between the part or parts so infected, and any other part of the city, district or townships aforesaid; and all judges, justices, sheriffs, constables and other civil officers and citizens of this state, are hereby authorized and empowered, enjoined and required, to aid and assist the said board and their officers, to the utmost of their power, in carrying into effect such rules, orders and regulations touching the stoppage of such intercourse, or removal of the infected, as the board shall ordain and publish.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That whenever by means aforesaid, or by the report of the hospital physician appointed by the board of health, (whom the said board are hereby authorized to send to places or houses suspected to be infected) it shall come to the knowledge of the said board, that any person within the city of Philadelphia, the district of Southwark, the townships of the Northern Liberties or Moyamensing, is afflicted with any contagious disease, dangerous to the community, it shall and may be lawful for the said board to take order for preventing the spreading of the contagion, by forbidding and preventing all communication with the infected house or family, except by means of physicians, nurses or messengers, to convey the necessary advice, medicines and provisions to the afflicted; and shall exercise all such other powers, as the circumstances of the case shall require, and as shall in their judgment be most conducive to the public good, with the least private injury.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That if any person shall obstruct, or resist the board of health, or any of the members thereof, or any person by them appointed in the execution of

the powers to them given, or in performance of duties enjoined on them by this act, and the rules and regulations of the said board, such person shall, on being thereof legally convicted, forfeit and pay a sum not exceeding five hundred dollars; to be recovered and appropriated as is hereinafter directed; and if after the expiration of the quarantine, any mariner or other person, who shall have complied with the regulations hereby established, shall commit any violence on the person of a member of the board of health, or any of the officers attached to the same, for anything done in the execution of his duty, such person shall be subject on conviction thereof, to a fine of two hundred dollars, and shall also be sentenced to imprisonment at hard labor, for any term not exceeding three years.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That for payment and satisfaction of all forfeitures and penalties, which are imposed by this act, and all sums of money directed by this act to be paid, it shall be the duty of the health officer to sue or prosecute, and the same to collect, recover and receive; and the same shall be recoverable before any alderman, justice of the peace, or court of justice having lawful jurisdiction to the amount of such forfeitures, penalties and sums of money respectively, or in the case, or upon the offense, upon which the proceeding shall be had; and the same when recovered and received, shall be appropriated and shall inure to the use of the institution, under the management and direction of the board of health; and no citizen or inhabitant of the city of Philadelphia, the district of Southwark, or the townships of the Northern Liberties or Moyamensing, shall be disqualified from sitting as judges or jurors, or from giving testimony respecting any of the offenses mentioned in this act, by reason of his, her or their common interest in the appropriation of the sum or penalties imposed for such offense; nor shall any member of the board of health, or any officer intrusted with the execution of this act, or any part thereof, be disqualified from giving testimony respecting any of the said offenses.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That all actions or prosecutions to be commenced against any master, captain, owner, or consignee, of any ship or vessel, or other person, by virtue of this act, shall be brought within twelve months next after the commission of the offense wherewith he is charged; and if any action or suit shall be commenced, against any person or persons for any matter or thing committed in violation of this act, the defendant or defendants may plead the general issue, and give this act and the special matter in evidence, at any trial to be had thereupon.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the said board of health, to cause all offensive or putrid substances, and all nuisances which may have a tendency, in their opinion, to endanger the health of the citizens, to be removed from the street lanes, alleys, highways, wharves, docks or any other part or parts of the city of Philadelphia, the district of Southwark, and the townships of the Northern Liberties and Moyamensing; and to cause such of the privies within the limits aforesaid, to be emptied or corrected with lime or otherwise, at the expense of the individuals who are owners of the houses to which the said privies are appurtenant, as the said board shall, from time to time, deem necessary, for the health of the inhabitants thereof; and if the owners or occupiers of the premises, on which any nuisance may be found, shall, on due notice thereof being given, refuse or neglect to have the same immediately removed or corrected as aforesaid, he, she or they so refusing or neglecting, shall forfeit and pay for such offense, any sum not less than twenty nor more than two hundred dollars, to be recovered and appropriated as by this act is directed.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That for defraying the expenses to be incurred, in erecting and supporting the said lazaretto, and for carrying into complete effect the other provisions contained in this act, the said board of health are hereby authorized and empowered, by and with the consent

of the mayor or recorder, two aldermen and two justices as aforesaid, to levy and collect by tax, on the estates and inhabitants of the city of Philadelphia, the district of Southwark, and townships of the Northern Liberties and Moyamensing, in the same manner, at the same rates, and under the same regulations, as the county rates and levies are or may be by law levied and collected, such sums as the said board, by and with the consent of the mayor or recorder, two aldermen and two justices as aforesaid, shall deem necessary for the use of the said institution; provided the same does not exceed the sum of forty thousand dollars; and the said board of health are hereby authorized and empowered to borrow, upon the credit of the taxes aforesaid, such sum or sums of money as may be thought necessary for the benefit of the said institution.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That at any time between the fifteenth and twenty-fifth days of December yearly and every year hereafter, the board of health shall report to the governor the amount of taxes which may be levied, the monies received, and the monies expended in pursuance of this act, and, generally, an exact and circumstantial account of the institution, and shall publish the same in one or more newspapers printed in the city of Philadelphia.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That no pilot bringing a ship or vessel to the lazaretto, in an apparent state of good health, shall be obliged to perform quarantine; but the lazaretto physician shall grant such pilot a certificate, permitting him to proceed to the capes of Delaware, in order that he may prosecute his profession; but such pilot shall not on any pretence come into the city of Philadelphia, the Northern Liberties, the district of Southwark or township of Moyamensing, for thirty days from the date of such certificate, under the penalty of one hundred dollars, and also of one year's imprisonment, which penalty shall be recovered and applied in the manner hereinbefore directed; and any pilot bringing to the said lazaretto a ship or vessel infected,

or suspected to be infected with any pestilential or contagious disease, may be permitted to go and remain on shore within the bounds of the lazaretto, during the time the ship or vessel brought thither by him shall be detained under quarantine: Provided always, that if the said vessel shall be infected with any such disease as aforesaid, he shall be detained and treated in like manner, as seamen or passengers so infected are herein directed to be detained and treated: And provided further, that if he shall go without the bounds of the lazaretto, he shall be liable to the same penalties, as are by this act imposed on seamen or passengers escaping therefrom.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue in force for three years, and from thence to the end of the next session of the general assembly and no longer.

Approved April 1, 1803. Recorded in L. B. No. 9, p. 194.

CHAPTER MMCCCLXXXVII.

AN ACT TO VEST IN THE DEVISEES OF JAMES PARROCK, DECEASED, SUCH PARTS OF THE FORFEITED ESTATE OF JOHN PARROCK, WHICH HAVE NOT BEEN SOLD BY THIS COMMONWEALTH.

Whereas, it hath been represented to the legislature, that a small portion of the estate of John Parrock, deceased, forfeited by his attainder, hath never been sold on behalf of the commonwealth, and Richard Smallwood and others, heirs of the said John Parrock, have prayed that the same may be vested in them; Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all right, title and interest, property, claim and demand whatsoever, which the commonwealth has in, to and out of such parts of the estate real and personal of the said John Parrock, forfeited by his attainder aforesaid, as hath not been heretofore sold, aliened, or otherwise disposed of, by and on account of the public, shall be

and the same is hereby granted, conveyed, assigned and set over unto the said Richard Smallwood and others, the devisees of the said James Parrock, father of the said John Parrock, forever, as if the attainder of the said John Parrock had not taken place; saving nevertheless unto all other persons their just and legal rights and claims.

Approved April 2, 1803. Recorded in L. B. No. 9, p. 217.

CHAPTER MMCCCLXXXVIII.

AN ACT TO DIRECT THE SALE OF CERTAIN UNIMPROVED LOTS, THE PROPERTY OF THIS COMMONWEALTH, IN THE CITY OF PHILADELPHIA, AND TO APPROPRIATE THE PROCEEDS THEREOF TOWARDS THE ERECTION OF A BUILDING FOR THE PURPOSE OF MORE COMPLETELY CARRYING INTO EFFECT THE PENAL LAWS OF THIS STATE.

Whereas the public prison of Philadelphia, is found to be too small for accommodating the convicts which are sent to that place, from different parts of the state, and the persons whom it may be necessary to imprison for offenses committed in the city and county of Philadelphia: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the inspectors of the prison in Philadelphia for the time being, or a majority of them, be and they are hereby authorized, to sell or otherwise appropriate, all the right, title, claim and interest of the commonwealth, in the vacant lots the property of this commonwealth, in the city of Philadelphia, unimproved by the state, in such manner, and at such times as to them may appear most eligible, and the monies arising from such sale is hereby appropriated to defray the expenses of erecting such prison, or other house of confinement, for the use of the said city and county, as the inspectors of the prison, the court, grand jury and county commissioners shall agree to direct and order: Provided always, that if the title to any lot sold by virtue of this act, shall prove to be defective, nothing herein con-

tained shall be construed so as to bind the state to pay the value of the same, or make reparation for any damages which may arise by such defective title: And it is further provided, that in consideration of the said lots being granted for the purposes aforesaid, the commonwealth reserves the right to the several counties within the same, to send their convicts to the present prison of the city and county of Philadelphia, agreeably to the provisions set forth in the penal laws of this commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That immediately after the said prison shall be completed, and suitable for the admission of prisoners, the said inspectors shall cause to be removed thereunto, all persons that may be then confined in the prison of the city and county of Philadelphia, under the denomination of prisoners for trial, vagrants, runaway or disorderly servants and apprentices, and all such other descriptions of persons, (except convicts) as have been heretofore confined in the county prison, and to receive into the said new prison, all persons of the aforesaid description that may hereafter be legally committed.

Approved April 2, 1803. Recorded in L. B. No. 9, p. 218.

CHAPTER MMCCCLXXXIX.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO ENABLE THE JUSTICES OF THE SUPREME COURT, TO HOLD CIRCUIT COURTS WITHIN THIS COMMONWEALTH." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That whenever any sheriff or other proper officer, who by virtue of any testatum executions or other writs grounded thereon, or by virtue of any other executions whatever, issued either by the supreme or circuit courts, shall hereafter take in execution and sell, any lands, tenements or hereditaments, shall die or be removed before

any deed shall be executed by him to the purchaser, then and in every such case the plaintiff, or purchaser, may apply to the circuit court of the supreme court, in the county wherein the lands, tenements or hereditaments so as aforesaid lie, and set forth the case to the said circuit court, with the reason why the title was not perfected by the former sheriff, or other officer who sold the same; and thereupon the said circuit court shall, as justice and equity require, order and direct the sheriff or other proper officer for the time being, to perfect such title, and execute a deed for the same to the purchaser; and upon such order obtained as aforesaid, and entered on the records of the said circuit court, it shall and may be lawful for the sheriff or other proper officer, according to the said order and direction, and he is hereby empowered and required, upon the full discharge and payment of the money or price for which the said lands, tenements or hereditaments, with such costs and charges as remain unpaid to the former sheriff or other officer, to make, execute, deliver and acknowledge any deed or deeds; and to perform and do all matters and things that by the former sheriff, or other officer, might, could or ought to have been performed or done in and about the premises; which, when done and performed, shall be held and adjudged as effectual in law, as if the title had been completed by the former sheriff or other proper officer.

Section II. (Section II, P. L.) And whereas, it frequently occurs, that defendants in ejectment commit great waste and destruction of the premises demanded, during the pendency of the suit, and before the trial thereof; and it has been heretofore considered that the writ of estrepement, to prevent such waste and destruction, can issue only upon affidavit filed, and motion to the court in term time, and the necessity of the case may require a more expeditious remedy, and it is just and proper to extend the remedy of the said writ: Be it therefore further enacted by the authority aforesaid, That when any ejectment shall be depending in the supreme court, circuit court, or court of common pleas, it shall and may be lawful for the prothonotary or clerk of the court, in which such ejectment is or shall be depending, upon affidavit of the

plaintiff, or other person knowing the fact, filed in his office, that the tenant or defendant in such ejectment has committed, or is committing waste and destruction of or in the premises, to issue a writ of estrepement to prevent the same of course, without motion to the court and in vacation; which affidavit shall be sworn before one of the judges of the supreme court or common pleas, and shall be considered regular though the judge before whom it shall be taken, may not be a judge of the court in which such ejectment shall or may be depending.

Approved April 2, 1803. Recorded in L. B. No. 9, p. 219.
Note (1). Chapter 2032; 16 Statutes at Large, p. 199.

CHAPTER MMCCXXL.

AN ACT RELATING TO THE CLAIM OF THIS COMMONWEALTH,
AGAINST ELIZABETH SERGEANT AND ESTHER WATERS, SURVIV-
ING EXECUTRIXES OF DAVID RITTENHOUSE, ESQUIRE, DECEASED.

Whereas by an act of congress for the erecting of tribunals, competent to determine the propriety of captures during the late war between Great Britain and her then Colonies, passed the twenty-fifth day of November, one thousand seven hundred and seventy-five, it is enacted in the fourth section thereof as follows, viz. "That it be and is hereby recommended to the several legislatures in the United Colonies, as soon as possible, to erect courts of justice, or give jurisdiction to the courts now in being, for the purpose of determining concerning the captures to be made aforesaid, and to provide that all trials in such case be had by a jury, under such qualifications as to the respective legislatures shall seem expedient;" and in the sixth section thereof as follows, viz: "That in all cases an appeal shall be allowed to the congress, or to such person or persons as they shall appoint, for the trial of appeals." And whereas by an act of the general assembly of Pennsylvania, passed the ninth day of September, one thousand seven hundred and seventy-eight,⁽¹⁾ entitled "An act for establishing a court of admiralty," appeals were allowed from the said court in all cases, unless from the determination or finding

of the facts by a jury, which was, under the provisions of the law, to be without reexamination or appeal; And whereas by a resolution of congress, of the fifteenth day of January, one thousand seven hundred and eighty, it was among other things declared, that trials in the court of appeals should be according to the law of nations and not by jury: And whereas the British sloop Active, having been captured as prize on the high seas, in the month of September, one thousand seven hundred and seventy-eight, and brought into the port of Philadelphia, and there libelled in the court of admiralty of the said state, held before George Ross, esquire, the then judge of the said court, on the eighteenth day of the said month of September: And whereas the libellants then and there against the said sloop Active, were Gideon Urmstead or Olmstead, Artimus White, Aquila Rumsdale and David Clarke, who claimed the whole vessel and cargo as their exclusive prize; Thomas Huston, master of the brig Convention, a vessel of war belonging to Pennsylvania, who claimed a moiety of the said prize for the state of Pennsylvania, himself and his crew; James Josiah, master of the sloop Girard, private vessel of war, who claimed one-fourth part of the said prize for himself, his owners and crew: And whereas all the facts respecting the said capture being submitted to the said court of admiralty, and a jury then and there returned, impannelled and sworn, a general verdict was brought in by the said jury, which was confirmed by the court, whereby Gideon Olmstead, Artimus White, Aquila Rumsdale and David Clarke, became entitled to one fourth of the said prize; Thomas Huston, for himself and crew, became entitled to another fourth; the state of Pennsylvania as owner of the vessel of war the Convention, to another fourth; and James Josiah for himself and owners and crew of the sloop Girard, become entitled to the remaining one-fourth part of the said prize: And whereas the said Gideon Olmstead, Artimus White, Aquila Rumsdale, and David Clarke, being dissatisfied with the verdict and sentence aforesaid, did appeal from the said court of admiralty of Pennsylvania, unto the court or committee of appeals appointed as aforesaid, under the authority of congress, notwith-

standing the recommendation of congress aforesaid, of the twenty-fifth day of November, one thousand seven hundred and seventy-five, for the appointment of courts of admiralty in each of the then United Colonies, did expressly provide that all trials respecting capture should be had by a jury, and under such qualifications as to the respective legislatures should seem expedient, and notwithstanding the court of appeals did decide not by a jury, but by the usage of nations, and notwithstanding the law for establishing the court of admiralty of Pennsylvania, did expressly take away the right of appeal, where the facts were found and determined by the intervention of a jury, and notwithstanding this state was authorized, at the time, to make such qualification or provision, taking away the right of appeal in jury cases, by virtue of the recommendation of congress aforesaid, which allowed and recommended the said courts of admiralty to be established with a jury, under such qualifications as to the respective legislatures should seem expedient: And whereas the said court of appeals of the United States, on the fifteenth day of December, one thousand seven hundred and seventy-eight, did reverse the sentence of the court of admiralty aforesaid, and did decree the whole of the said prize to the appellants: And whereas the judge of the court of admiralty, to wit: George Ross aforesaid, did refuse obedience to the decree of reversal, and did direct Matthew Clarkson, then marshal of the said court, to pay part of the said prize, to the amount of eleven thousand four hundred and ninety-six pounds nine shillings and nine pence, Pennsylvania currency, for the use of the state of Pennnsylvania, whereof David Rittenhouse was then treasurer, taking a bond of indemnity from the said David Rittenhouse, as treasurer as aforesaid, to save him the said George Ross, his executors, administrators, &c. harmless from the consequence of such payment, which bond is dated the first day of May, one thousand seven hundred and seventy-nine: And whereas the said George Ross dying, suit was brought against his executors in the court of common pleas of Lancaster county, by and on the part of the appellants before named, for the money whereunto they pretended title, by

virtue of the decree aforesaid, of the court of appeals reversing the sentence of the court of admiralty, whereof the said George Ross had been judge: And whereas it does not appear that the said David Rittenhouse had any notice or information, or was in any legal way apprized of, or made a party to the said suit in the court of common pleas of Lancaster county, either in his personal capacity, or as treasurer of the state of Pennsylvania, so that judgment was obtained by default against the executors of the said George Ross, without any knowledge of the said David Rittenhouse, or his being able to take any measures on behalf of himself or the state of Pennsylvania, to prevent the same: And whereas in consequence of the judgment so obtained in the said court of common pleas of Lancaster county, against the executors of the said George Ross, the said executors brought suit against the said David Rittenhouse, which in the year one thousand seven hundred and ninety-two, in the term of April of the same year, was heard and determined in the supreme court of Pennsylvania (on a case stated for the opinion of the court after verdict taken for the plaintiff subject to that opinion) by Thomas McKean, chief justice and others, the judges of the said court, who among other things thereunto relating, did decree and determine, that the reversal as before mentioned, had and made in the court of appeals, was contrary to the provisions of the act of congress recommending the establishment of courts of admiralty, and of the general assembly of the state of Pennsylvania, in their act for the establishment of the said court, and was extra judicial, erroneous and void, and that the court of common pleas of the county of Lancaster, was incompetent to carry into effect the decree of the court of appeals, and that the judge of the court of admiralty aforesaid, George Ross, was not liable to an action in a court of law, for distributing money according to his decree as judge of the said court: And whereas at the second session of the third congress of the United States, held at the city of Philadelphia in the month of December, one thousand seven hundred and ninety-three, it was proposed as an amendment to the constitution of the United States, that the judicial power of the United States

shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state, which, having been adopted by the requisite number of states, as appears by the communication to congress of the then president John Adams, to this purpose, of January the eighth, one thousand seven hundred and ninety-eight, did become a part of the constitution of the United States: And whereas on the twenty-seventh day of May, one thousand eight hundred and two, the said Gideon Olmstead, Artimus White, Aquila Rumsdale and David Clarke, by their attorney William Lewis, esquire, did file a bill in the district court of the United States, at Philadelphia, for the district of Pennsylvania, before Richard Peters, judge of the said court, against Elizabeth Serjeant and Esther Waters, surviving executrixes of David Rittenhouse aforesaid, deceased, for the recovery of the monies with interest so paid into the hands of the said David Rittenhouse by Matthew Clarkson, marshal of the admiralty courts aforesaid, as proceeds of the prize, the brig Active, so captured as aforesaid, and by the said David Rittenhouse and his executrixes aforesaid, formerly and still retained: And whereas in the answer of the said Elizabeth Serjeant and Esther Waters to the bill aforesaid, it sufficiently and substantially appears, that the said money was originally received by the said David Rittenhouse, and was by him detained as treasurer of the commonwealth of Pennsylvania, which commonwealth was and still is interested in, and a claimant of the same under a decree of the said George Ross, as judge of the court of admiralty in manner as hereinbefore stated: And whereas the said Richard Peters, judge of the said district court, on the bill, answer and replication so filed by and between the said Gideon Olmstead, Artimus White, Aquila Rumsdale and David Clarke, of the one part, against Elizabeth Serjeant and Esther Waters, executrixes as aforesaid, did on the fourteenth day of January, one thousand eight hundred and three, proceed to decree as follows, viz. This is the long depending case of the sloop Active and cargo, it comes before me by libel filed against the executors of the late Mr. Rittenhouse, who

received from George Ross, esquire, then judge of the state court of admiralty, the sums mentioned in the libel, which were invested in the certificates of stock as stated therein; Mr. Rittenhouse, on receiving these certificates, which were proceeds of the sales of the said sloop and cargo, gave a bond of indemnity to Mr. Ross, which is now offered when payment of these proceeds is made to be delivered up; the suit is instituted for the purpose of carrying into effect a decree of the court of appeals established under the old confederation, a copy whereof appears among the exhibits; in answer it is alleged, that the monies were received for the state of Pennsylvania, in replication this is denied; in a memorandum made by Mr. Rittenhouse, at the foot of the account exhibited, it appears that he intended to pay over these proceeds to the state when indemnified; no such payment ever has been made, and the certificates and monies are yet in the hands of the respondents; it appears to me that Mr. Rittenhouse considered himself, as I conceive he was, a stakeholder, liable to pay over the deposit to those lawfully entitled thereto; his executors conceive themselves in the same predicament, and have declined paying over the said certificates and interest; no counsel have appeared and requested to be heard on the part of the respondents, and I am left to judge from the libel, answer, replication and exhibits which contain the state of the facts; if I should be thought mistaken in the opinion I form on the subject, there is time and opportunity to appeal to a superior tribunal; I throw out of the case all circumstances not immediately within my present view of the duty I have to perform; I have nothing to do with the original question that has been decided by the court of appeals, nor does it appear to me essential for me to determine with what intentions Mr. Rittenhouse received the certificates; the fact of the certificates and interest being now in the hands of the respondents, is granted by them in their answer; it has been determined by the supreme court of the United States, that this court has power to effectuate the decrees of the late court of appeals in prize causes, and this court has on several occasions practised agreeably to that decision; there is no doubt on my mind, (the au-

thorities in the books being clear on this point) that the process and jurisdiction of this court, will reach and extend over the proceeds of all ships, goods and articles, taken as lawful prize, found within the district, and legally proceeded therein; these proceeds are under the same legal disposition, and subject to the same responsibility, under whatever shape they may appear, as the original thing from which they were produced; it is conceded that the certificates and monies in question are proceeds of the sloop and cargo, in the libel mentioned; these were decreed to the libellants by the judgment of the late court of appeals: I am therefore of opinion, and accordingly decree, and finally adjudge and determine, that the certificates be transferred and delivered, and the interest monies paid over by the respondents to the libellants, of execution in the judgment and decree of the court of appeals, as stated in the proceedings in this cause, with costs; I make it however a condition that the bond of indemnity be cancelled or delivered to the respondents, on their compliance with this decree. Signed, Richard Peters. All which legal proceedings hereinbefore stated, will more fully and at large appear, on reference to the records of the respective courts wherein the same were had: Therefore it hath become necessary for the general assembly of Pennsylvania, as guardians of the rights and interests of this commonwealth, and to prevent any future infringements on the same, to declare: That the jurisdiction entertained by the court, or committee, of appeals over the decree of George Ross, as judge of the court of admiralty of Pennsylvania, in the suit where the claimants of the brig Active as prize were the libellants, as hereinbefore stated, was illegally usurped and exercised in contradiction to the just rights of Pennsylvania, and the proper jurisdiction of the court of admiralty established as aforesaid, under the authority of this state, and that the reversal of the decree of the said George Ross, in that suit, was null and void; that the jurisdiction entertained by Richard Peters, judge of the district court aforesaid, in the suit of Gideon Olmstead, Artimus White, Aquila Rumsdale and David Clarke, against Elizabeth Sergeant and Esther Waters, surviving executrixes of David Rit-

tenhouse, deceased, was illegally usurped and exercised; that the rights of this commonwealth as a claimant, and as the party substantially interested in the said suit, though apparent on the face of the proceedings, were unfairly passed over and set aside; that the said David Rittenhouse was not, and ought not to have been considered in the light of a mere stakeholder, but as the treasurer and agent of this commonwealth; and that the jurisdiction and decree of the said Richard Peters hereon, were entertained and made in manifest opposition to, and violation of the last amendment of the constitution of the United States hereinbefore stated, and ought not to be supported or obeyed: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the governor of this commonwealth be authorized, and he is hereby authorized and required, to direct the attorney general of this commonwealth, to apply without delay to Elizabeth Sergeant and Esther Waters, executrixes as aforesaid, and require them forthwith to pay into the treasury of this commonwealth the monies by them admitted to have been received in respect of the premises, in their answer to the bill so as aforesaid filed against them, in the district court of Pennsylvania, before Richard Peters, judge of the said court, without regard to the decree of the said Richard Peters herein; and in default thereof by the said Elizabeth Sergeant and Esther Waters, to direct the said attorney general to bring suit in the name of the commonwealth, in the proper court of this commonwealth, against the said Elizabeth Sergeant and Esther Waters for the monies aforesaid, and proceed, as speedily as the course of legal proceedings will permit, to enforce the recovery and payment thereof, into the treasury of this commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the governor of this commonwealth be authorized and required, and he is hereby authorized and required, to protect the just rights of the state, in respect of the premises, by any further means and meas-

ures that he may deem necessary for the purpose, and also to protect the persons and properties of the said Elizabeth Sergeant and Esther Waters from any process whatever, issued out of any federal court, in consequence of their obedience to the requisition, so as aforesaid directed to be made to them, by the attorney general of this commonwealth; and in the name of this commonwealth to give to the said Elizabeth Sergeant and Esther Waters, a sufficient instrument of indemnification in case of their payment of the monies aforesaid, in compliance with this act, without suit brought against them on the part of this commonwealth, for the recovery of the same.

Approved April 2, 1803. Recorded in L. B. No. 9, p. 221.
Note (*). Chapter 811; 9 Statutes at Large, p. 277.

CHAPTER MMCCCXCI.

AN ACT TO ORGANIZE THE PROVISIONAL COUNTIES OF BEAVER, BUTLER, MERCER AND ERIE, FOR JUDICIAL PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first Monday of November next, the inhabitants of the counties of Beaver, Butler, Mercer and Erie respectively, shall at all times thereafter, enjoy all and singular, the jurisdictions, powers, rights, liberties and privileges whatsoever within the same, which the inhabitants of other counties of this state do, may or ought to enjoy within their respective counties, by the constitution and laws of the commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the counties of Beaver, Butler, Crawford, Mercer and Erie, shall form a separate circuit or district, to be called the sixth district, and the president to be appointed for said district, and the associate judges to be appointed in each of the aforesaid counties, shall have like powers, jurisdictions and authorities within the same, as are

warranted to, and exercised by, the judges in other counties of this commonwealth.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That all actions of trespass and ejectment, for the trial of titles to [lands], actions of trespass quare clausum fregit, for entry into any lands or tenements, within the bounds of the counties of Beaver, Butler, Mercer and Erie, which shall, at the time of passing this act, or before the first Monday of November next, have been commenced in the courts of common pleas, or circuit courts of the counties of Allegheny or Crawford, or which have been commenced in the county of Allegheny or Crawford, or which have been commenced in the county of Allegheny, in the court of common pleas or circuit court as aforesaid, within the bounds of the county of Crawford, and which shall on the said first Monday of November next, be still pending and undetermined, shall be transferred to the courts of common pleas and circuit courts, to which they respectively appertain, in the several counties organized by this act, and containing the lands and tenements, for the possession whereof, or trespass whereon, any of the aforesaid actions shall or may have been brought, there to be proceeded on to trial and determination according to law, in the same state, and subject to the same rules, as they or any of them were on the said Monday: And the prothonotaries of Allegheny and Crawford counties, shall and they are hereby required and enjoined, within thirty days after the said first Monday of November next, to make out a docket, containing a statement of all such actions then pending and undetermined, in the said counties of Allegheny and Crawford, and shall have the said docket, together with the records, declarations and other papers respecting all such actions, then pending and undetermined as aforesaid, ready to be delivered to the prothonotaries of the counties to which they respectively appertain, and which contain the lands and tenements, for the possession whereof, or trespass whereon, any of the aforesaid actions shall or may have been brought, which

prothonotaries respectively, before they receive the same, shall pay to the prothonotaries of the counties of Allegheny and Crawford, for every action contained in said docket, the usual fees allowed for similar services, which shall be reimbursed to them by the counties to which they belong; and all such actions so pending and undetermined, and transferred as aforesaid, by the prothonotaries of Allegheny and Crawford counties, and by the prothonotary of the county of Allegheny, to the prothonotary of the county of Crawford, shall be considered as pending in the courts of common pleas, or circuit courts in the counties to which they have been respectively transferred, from and after the first Monday of November next; and shall be proceeded upon in like manner, as if they had been originally commenced in said counties; and the prothonotaries of the counties of Beaver, Butler, Mercer and Erie respectively, shall account, upon the receipt of the costs of all such actions, or any of them, to the prothonotaries of the counties of Allegheny and Crawford, as the case may be, for all legal fees incurred in the counties of Allegheny or Crawford on such actions, or any of them; and no action or suit other than the said actions of trespass and ejectment, or trespass quare clausum fregit, now commenced, or which may be commenced in the counties of Allegheny and Crawford, before the first Monday of November next, against any person living or residing within the bounds of the counties of Beaver, Butler, Mercer, Crawford and Erie, shall be stayed, discontinued or affected by this act, or anything herein contained, but the same may be prosecuted in the same manner as if this act had not been passed.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the sheriffs, coroners, and other public officers, of the counties of Allegheny and Crawford, shall continue to exercise the duties of their respective offices, within the counties of Beaver, Butler, Mercer and Erie, as heretofore, until the first Monday of November next.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the sheriffs, coroners, treasurers and all such other officers as have heretofore usually

given bail for the faithful discharge of the duties of their respective offices, who may have heretofore been elected or appointed in the counties of Beaver, Butler, Mercer and Erie, before they enter on the duties of their offices, shall give sufficient sureties in the like sums, and in the like manner and form, and for the like purposes, uses and trusts, as such officers are obliged to do in the counties of Allegheny and Crawford, or for such sums, or in such manner, as may be hereafter directed by law.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the commissioners that may be hereafter elected for the counties of Beaver, Butler, Mercer and Erie respectively, to erect or cause to be erected, as soon as they may deem convenient, a court house, prison and other public building, for the safe keeping of the records and papers, in each of the counties aforesaid, on such parts of the public square, in the town of Beaver, in the county of Beaver; in the town of Butler, in the county of Butler; in the town of Mercer, in the county of Mercer; in the town of Erie, in the county of Erie, as the commissioners of the said respective counties may think proper; and the said commissioners of the counties of Beaver, Butler, Mercer and Erie respectively, shall have authority to call on the commissioners of the respective counties of Allegheny and Crawford, for the purpose of examining, liquidating and receiving such balances, as shall be found due to the said respective counties of Beaver, Butler, Mercer and Erie, and reserved for the use of the same, agreeably to an act of the general assembly of this commonwealth, passed the twelfth day of March, one thousand eight hundred.⁽¹⁾

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the courts for the county of Beaver, shall be held in the house now occupied by Abner Laycock, in the town of Beaver, until a court house shall be erected, or until the county commissioners and the court shall think proper to have it held at some more convenient house in said town.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the respective commissioners of the counties of Butler and Mercer, shall procure houses as near the centres of their respective counties as convenience will admit, at the least possible expense. in which they shall hold their respective courts, until they shall have erected their court houses; or if such houses cannot be conveniently procured, the aforesaid commissioners shall have power to erect temporary buildings, in each of their respective county towns, for that purpose.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the courts for the county of Erie, shall be held at the house now occupied by George Beeler, in the town of Erie, until a court house shall be erected in said town, or until the county commissioners and the court shall think it proper to have it held at some more convenient house in said town.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the citizens inhabitants of the respective counties of Beaver, Butler, Mercer and Erie, who are, or shall be, qualified to elect agreeably to the constitution and laws of this state, shall, at the first general election to be held in the counties aforesaid, on the second Tuesday of October next, choose two fit persons for sheriffs, two for coroners, and three for commissioners, in each of said counties, in the same manner, and under the same rules, regulations and penalties as by the constitution and laws of this commonwealth, similar officers are chosen in other counties, and said officers when chosen as aforesaid, and duly qualified to enter on the duties of their respective offices, shall have and enjoy, all and singular, the powers, authorities, privileges and emoluments in or any way arising, out of their respective offices, in and for the counties aforesaid respectively, as fully as such officers are entitled to, in any other of the counties within this commonwealth.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That from the first Monday in February next, the courts of common pleas and quarter ses-

sions of the peace, shall be held within the aforesaid circuit or district, agreeably to the following arrangement; that is, in the county of Beaver, on the first Mondays of February, August and November; in the county of Butler, on the Mondays next following the courts in Beaver; in the county of Mercer on the Mondays next following the courts in Butler; in the county of Crawford on the Mondays next following the courts in Mercer; in the county of Erie, on the Mondays next following the courts in Crawford.

Approved April 2, 1803. Recorded in L. B. No. 9, p. 230.

Note (*). Chapter 2130; 16 Statutes at Large, p. 454.

CHAPTER MMCCCXCII.

AN ACT TO ERECT PART OF SOUTH IRWIN TOWNSHIP, IN THE COUNTY OF VENANGO, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the following described part of South Irwin township, in the county of Venango, shall be a separate election district, viz. Beginning on the west verge of Allegheny river near the house now occupied by Daniel Fry; thence due west to the county line dividing the counties of Venango and Mercer; thence southward along the line dividing said counties, to the southwest corner of Venango county; thence eastward along the line dividing the counties of Venango and Butler to the verge of Allegheny river; thence up the same to the place of beginning; and the electors thereof shall hold their general elections at the house now occupied by Patrick Davidson, to be known by the name of South Irwin district.

Approved April 2, 1803. Recorded in L. B. No. 9, p. 285.

CHAPTER MMCCCXCIII.

AN ACT ERECTING CERTAIN ELECTION DISTRICTS IN THE COUNTY OF CRAWFORD.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the townships of Beaver and Cussewago, shall be a separate election district; and the electors thereof shall hold their general elections at the house now occupied by Robert Nelson, in the said district.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act the townships of Conneaut and Sadsbury, except such part of Conneaut township as lies south of the Pymatuning swamp, shall be a separate election district; and the electors thereof shall hold their general elections at the house now occupied by Joseph Garwood in the said district.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the townships of Shenango and Followfield, and that part of Conneaut township that lies south of the Pymatuning swamp, shall be a separate election district; and the electors thereof shall hold their general elections at the house now occupied by Thomas McMichael in said district.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the township of Fairfield, with the following described part of the county aforesaid, shall be a separate election district, viz. Beginning at the northeast corner of Fairfield township; thence by a direct line to the northwest corner of a donation tract of land, in the sixth donation district, No. 120; thence along the north end of a range of donation tracts, on an eastwardly course, to the line dividing the

counties of Venango and Crawford; thence along the lines dividing the said counties, to the southeast corner of Fairfield township; and the electors thereof shall hold their general elections at the house now occupied by James Herrington in said district.

Approved April 4, 1803. Recorded in L. B. No. 9, p. 236.

CHAPTER MMCCCXCIV.

AN ACT TO ESTABLISH AND CONFIRM THE PLACE FOR HOLDING THE COURTS OF JUSTICE, AND TO PROVIDE FOR ERECTING THE PUBLIC BUILDINGS FOR THE USE OF ARMSTRONG COUNTY.

Whereas in pursuance of an act, passed the sixth of April, one thousand eight hundred and two,⁽¹⁾ entitled "An act to establish the places for holding the courts of justice, in the counties of Armstrong, Butler and Mercer," it appears that the governor did appoint Isaac Weaver, John Hamilton, Thomas Morton, James Brady and Presly Carr Lane, esquires, commissioners to perform the duties enjoined and required by the said act: And whereas it appears by the report of the said commissioners, deposited by them in the office of the secretary of the commonwealth, and now before the general assembly, by which it appears that the said commissioners, have performed the duties enjoined and required by the said act: In order therefore to complete and secure to the good people of the said county, the benefits intended in and by the act aforesaid,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That James Sloan, James Matthews and Alexander Walker, be, and hereby are, appointed trustees for the county of Armstrong, and the said trustees or a majority of them, are hereby authorized, enjoined and required, to survey, or cause to be surveyed, one hundred and fifty acres of land, near the place where general Armstrong defeated the Indians, on the east side of the Allegheny river,

above Sloan's ferry, including the bend of said river, nearly opposite to a small island, being part of a tract of land called Kittanning, the property of James and John Armstrong, particularly described and set forth in the report of the commissioners, under the act, entitled "An act to establish the places for holding the courts of justice in the counties of Armstrong, Butler and Mercer,"⁽¹⁾ and given and granted under an obligation made and executed by James Armstrong, in behalf of himself and his brother John Armstrong, to the governor, in trust and to the use of the said county; and the aforesaid trustees are also hereby authorized and required, to lay out a convenient lot or lots, not exceeding two acres, whereon the public buildings for the county of Armstrong shall be erected; and the said lot or lots being so laid out, the surplus of the said one hundred and fifty acres, shall be laid out into town-lots and out-lots, in such manner, and with such streets, not more than ninety nor less than sixty feet wide, and such lanes and alleys, for public uses, as the said trustees shall direct: Provided, that not more than two thirds of an acre, nor less than one fourth of an acre, shall be contained in any town-lot, nor more than two acres in any out-lot; and the same being so surveyed and laid out, shall be called Kittanning, and the streets, lanes and alleys, within the town and out-lots, shall be and remain common highways forever.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the said trustees, or a major part of them, to sell by public auction, the said town-lots and out-lots, at such time as they may judge most advantageous to the county, which sale shall be held at the house of James Sloan, in the said county, previous to which the said trustees shall advertise the same three times at least, in one or more of the newspapers printed in Pittsburgh, Washington, Greensburg, Lancaster and Philadelphia, three months before the day appointed for such sale; and before the advertisements are published as aforesaid, transmit a map or draft of the town and out-lots to the secretary of the commonwealth, to be deposited in his office; and with the money arising from the sale of the said town-lots

and out-lots, the trustees shall proceed to erect a court house, jail and other necessary public buildings, for the use of the county of Armstrong: Provided however, that before the aforesaid trustees shall proceed to the performance of any other of the duties hereby enjoined and required, they shall demand and receive a deed or deeds of conveyance, in fee simple, from James Armstrong and John Armstrong, agreeably to the terms expressed in the aforesaid obligation, for that purpose given, by the aforesaid James Armstrong to the governor; and shall procure the deed or deeds to be recorded in the office for recording of deeds, in the county of Westmoreland, and when the said trustees have so done, they shall have authority, and it shall be their duty, to make out and grant sufficient deeds, in fee simple, for the town-lots and out-lots by them sold in pursuance of this act.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the aforesaid trustees, or a majority of them, shall, within two years from and after the courts of law and board of commissioners shall have been established and opened by law, in and for said county, the said trustees shall surrender and convey to the said commissioners and their successors in office, in trust for the use of the county, all the trust and trusts vested in them, or in a majority of them, by this act; and the said commissioners of the county are hereby empowered and required, to do and perform the several duties which may remain to be done, as fully and effectually as the said trustees might or could have done; and the said county commissioners shall have power, and it shall be their duty, to call upon and compel the aforesaid trustees to settle their accounts, and to pay over the money to the county treasurer, if any such money remains in their hands, or in the hands of either of them, due to the county of Armstrong, from the sale of town-lots or out-lots aforesaid: Provided however, that any time before the said county of Armstrong is organized, and the courts of law and board of commissioners are in operation, it shall be the duty of the court of common pleas for the counties of Westmoreland and Armstrong, on the petition of fifty freeholders of the county of

Armstrong, to the said court, to appoint auditors, with as full powers to compel the said trustees to settle their accounts, as the county commissioners might or could do in pursuance of the aforesaid powers.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That each of the aforesaid trustees shall receive one dollar thirty-three cents, for every day he or they shall be employed in performing the duties of the aforesaid trust, together with all expenses necessarily incurred for assistance in laying out lots, streets, lanes and alleys, to be paid by the treasurer of the county of Westmoreland, on orders drawn by the commissioners of said county, out of the county taxes levied on the county of Armstrong.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall, as soon as may be, file a draft, return, and report of the survey and proceedings under and by virtue of this act, in the office of the recorder of deeds in and for the county of Westmoreland.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That so much of the act passed March the twelfth, one thousand eight hundred,⁽²⁾ as authorises the commissioners therein named, to be trustees for the said county of Armstrong, is hereby repealed and made void.

Approved April 4, 1803. Recorded in L. B. No. 9, p. 237.

Note (1). Chapter 2296; *Supra* this volume, p. 146.

Note (2). Chapter 2130; 16 *Statutes at Large*, p. 454.

CHAPTER MMCCCXCV.

AN ACT MAKING CERTAIN APPROPRIATIONS, AND TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO NEGOTIATE CERTAIN LOANS, AND FOR OTHER PURPOSES THEREIN MENTIONED.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the governor of this commonwealth be, and he is hereby authorized to negotiate a loan,

from the bank of Pennsylvania, or any other bank in the city of Philadelphia, for the sum of fifty thousand dollars, to be repaid in three months from the time such loan shall be obtained, out of such dividends upon bank stock as shall be due and payable to this commonwealth in July next; together with such sums, to be taken out of any monies then in the treasury as in addition to the said dividends, may be sufficient for that purpose; and to secure the repayment of the monies so as aforesaid borrowed, it shall and may be lawful for the governor to pledge as much of the bank stock, or deferred stock of the United States, the property of this state, with the bank as shall be a sufficient security for the repayment of the money so as aforesaid borrowed, which the bank making such loan is hereby authorized to receive and use for the purposes aforesaid; and the governor is hereby authorized and required, at the expiration of three months from the time the aforesaid loan shall be obtained, to discharge the same, by applying to that purpose the said dividends upon bank stock, and so much of such other monies as may then be in the treasury, as will be necessary for the discharge of the loan so made, the same being hereby appropriated for that purpose.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the monies procured on loan as aforesaid, shall be appropriated to the discharge of the debt heretofore contracted, and now growing due to the bank of Pennsylvania, and the governor is hereby authorized and required to apply the same to that purpose.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That as soon as any of the certificates issued in pursuance of the act, entitled "An act offering compensation to the Pennsylvania claimants, of certain lands within the seventeen townships, in the county of Luzerne, and for other purposes," passed the fourth day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ shall be presented at the treasury for payment, it shall and may be lawful for the governor to negotiate on loan or loans of the bank of Pennsylvania, or of any other bank in the city of Philadelphia, at an interest not exceeding six per centum per annum, and pay-

able half-yearly, any sum or sums not exceeding in the whole one hundred thousand dollars, to be received of such bank, in such instalments as will answer the demands of the holders of the aforesaid certificates: Provided always nevertheless, that the loan so made shall not prevent the state from discharging each instalment in one year, from the time it was received from the bank; and the governor is hereby authorized to pledge from time to time, as he shall obtain loans as aforesaid, such amount of deferred stock of the United States, or bank stock the property of this state, as shall be deemed a sufficient security for the repayment and discharge of the loans so as aforesaid procured, which the bank making such loan is hereby authorized to receive and use for the purposes aforesaid.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That in case no such loan can be procured from any of the banks aforesaid, then and in such case it shall and may be lawful for the governor to sell, from time to time, as the same shall be necessary, so much of the deferred stock of the United States, the property of this state, not exceeding one hundred thousand dollars, as will be sufficient to discharge the certificates issued under the said act: Provided, that such sale be made at not less than at the rate of one dollar for every dollar of such stock so by him sold: And provided also, that such sale does not exceed the sum of one hundred thousand dollars.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That for the payment of the following debts and expenses of government, there be and is hereby appropriated, out of the funds for the support of government, the sum of twenty-four thousand one hundred and thirty-two dollars and fifty-two cents; that is to say, for the payment of certain certificates issued under the act, entitled "An act to provide for the settlement of the public accounts, and for other purposes therein mentioned," passed the fourth day of April, one thousand seven hundred and ninety-two,⁽²⁾ the sum of eight thousand four hundred and eighty-nine dollars and seventy-four cents, including the unexpended appro-

priation made on the sixth day of April last; for clerk hire, printing, stationery, attendants, expresses, fuel and other contingent expenses of the executive department for one year, from the first day of April, in the present year, the sum of three thousand dollars; for the payment of clerks in the office of comptroller general, in settling the accounts of the former and late comptroller generals, eight hundred dollars; for the office of surveyor general, to arrange and bring forward the business of that office, six hundred dollars, for which he shall account; for the purpose of clerk-hire in the office of the secretary of the land office, to select, arrange, endorse and file all the proprietary locations, and for other purposes, six hundred dollars; for the payment of clerk-hire in the register general's office, the sum of six hundred dollars; for the purpose of defraying the expense of one thousand copies of the laws, printed by Matthew Carey and John Bioren, agreeably to an act passed April sixth, one thousand eight hundred and two,⁽³⁾ ten thousand dollars, which sum of ten thousand dollars the governor is hereby authorized to cause to be paid to Matthew Carey and John Bioren, at such time as he may think advisable, provided the sureties of said Matthew Carey and John Bioren, for the performance of their contract, shall first approve of such advance; and for the purpose of discharging a debt due to Samuel Relf for newspapers furnished the last legislature, forty-two dollars and seventy-eight cents.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the secretary of the commonwealth be directed to lay before the next general assembly, a particular account of the expenses of the executive department.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That all warrants to be drawn on the treasury by the governor, for the sums of money appropriated by this act, shall be under the same regulations and restrictions, as are directed by law in other cases.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That all and singular, the powers and duties vested in the comptroller general and reg-

ister general and governor of the commonwealth, by the act, entitled "An act to facilitate the settlement of the accounts of former and present county treasurers, for arrears of state taxes," passed the fifth day of February, one thousand eight hundred and two,⁽⁴⁾ are hereby renewed and extended for one year, from and after the passing of this act.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the comptroller and register general, shall lay before the legislature, on the first day of January next, a statement of the progress made in the settlement of the accounts of the present and former county treasurers, for the arrears of state taxes, under the act, entitled "An act to facilitate the settlement of the accounts of the former and present county treasurers, for the arrearages of state taxes," passed February fifth, one thousand eight hundred and two.⁽⁴⁾

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That such of the certificates as were issued by virtue of the act of the first of March, one thousand seven hundred and eighty-six,⁽⁵⁾ as have not been exchanged or value given therefor by the commonwealth, and which consequently remain outstanding, shall be redeemed in the following manner, to wit: Upon the presentation of any of the aforesaid certificates for redemption, the register general is hereby authorized and directed to state an account, exhibiting the actual market price of the certificates, six per centum deferred, six per centum, and three per centum stock of the United States, which the holders of such certificates so presented as aforesaid would have been entitled to receive, in exchange for such certificates, if they had been presented for exchange previously to the passing of this act, which account shall be submitted to the judgment and revision of the comptroller general, in like manner as other accounts, who if he approve the same, shall inform the register general accordingly, but if the comptroller general disapprove thereof, he shall, after having in writing informed the register general of such his disapprobation and the reasons thereof, if they cannot then agree, transmit the same together with a statement of

his objections to the governor, who shall thereupon, after having enquired into the reasons of the comptroller general and register general, in support of their respective opinions, decide as the nature of the case may require, and return the said account and the vouchers thereof to the register general, who shall submit the same to the comptroller general: Provided always, that in all cases where the parties shall not be satisfied with the settlement of their respective accounts, in the manner aforesaid, or where there shall be reason to suppose that justice has not been done to the commonwealth, the governor may and shall, in like manner, and upon the same conditions as heretofore, allow appeals or cause suits to be instituted as the case may require.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the governor shall draw warrants in favor of the parties on the state treasurer, for the amounts ascertained as aforesaid to be the actual market value of the aforesaid certificates of the United States, payable out of the sum of twenty thousand dollars, which is hereby appropriated as the fund for the payment of such warrants.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the comptroller general shall, and he is hereby directed, to deposit with the state treasurer, all such certificates of six per centum deferred, six per centum, and three per centum stock of the United States, which he hath received, or shall receive, from the late comptroller general, John Donaldson, esquire, for the purpose of exchanging the outstanding certificates, issued under the act of the first of March, one thousand seven hundred and eighty-six⁽⁵⁾ aforesaid.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That so much of any former act or acts of assembly, as authorize the governor to sell or transfer to the bank of Pennsylvania or to any individual, any of the stock of the United States, the property of this state, be and the same is hereby repealed.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the comptroller general, and register general, be and they, or either of them, are hereby authorized and directed, to inspect and examine as often as they or either of them may think necessary the accounts of the state treasurer, on the books of the bank of Pennsylvania, and to adjust and settle the said accounts, in such manner and under the like restrictions and regulations as other accounts are by law directed to be adjusted and settled.

Approved April 4, 1803. Recorded in L. B. No. 9, p. 241.

Note (¹). Chapter 2053; 16 Statutes at Large, p. 245.

Note (²). Chapter 1627; 14 Statutes at Large, p. 243.

Note (³). Chapter 2303; Supra this volume, p. 218.

Note (⁴). Chapter 2234; Supra this volume, p. 62.

Note (⁵). Chapter 1202; 12 Statutes at Large, p. 158.

CHAPTER MMCCCXCVI.

AN ACT FOR LAYING OUT COMPETENT DISTRICTS FOR THE APPOINTMENT OF JUSTICES OF THE PEACE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the different counties of this commonwealth, shall be respectively laid out into suitable districts, for the appointment of a competent number of justices of the peace, by the commissioners of each county respectively, agreeably to the rules hereinafter prescribed; and for this purpose it shall be the duty of the said commissioners to meet together on the fourth Monday of October next, and to continue from day to day, until they have completed a list or draught in numerical order, of the number of districts contained in their respective counties, and shall transmit a duplicate return of the same, containing the number and description of the bounds of each district, the number of taxable inhabitants, and the number of acting justices within each, and as near as may be the local residence of such justices, to the

office of the secretary of the commonwealth, on or before the second Tuesday of December next; and the said commissioners shall also transmit one other duplicate of the same to the office of the prothonotary of the respective county, which duplicate the said prothonotary shall enter and record in his office, for doing which he shall receive twenty-five cents for each district, by him so recorded.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners shall not lay out their respective counties into a greater number of districts, than is herein directed; that is to say the number of districts in the county of Adams, shall not exceed seven districts; Allegheny twelve; Armstrong six; Beaver six; Bedford fifteen; Berks fifteen; Bucks thirteen; Butler six; Centre seven; Chester sixteen; Crawford ten; Cumberland sixteen; Dauphin nine; Delaware six; Erie six; Fayette twelve; Franklin twelve; Green seven; Huntingdon fifteen; Lancaster twelve; Luzerne ten; Lycoming six; Mercer six; Mifflin ten; Montgomery ten; Northampton twelve; Northumberland twenty; Philadelphia six; Somerset seven; Venango six; Warren six; Washington thirteen; Wayne eight; Westmoreland twelve; York fourteen.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That if the commissioners of any of the counties aforesaid, shall neglect or refuse to do and perform the duties required of them by this act, every such commissioner so neglecting or refusing, unless prevented by sickness or other unavoidable accident, shall forfeit and pay the sum of fifty dollars for the use of the county, to be recovered with costs of suit, by action of debt or indictment; at the election of the party prosecuting.

Approved April 4, 1803. Recorded in L. B. No. 9, 247.

CHAPTER MMCCCXCVII.

AN ACT DECLARING THE SHENANGO OR PYMATUNING CREEK A PUBLIC STREAM OR HIGHWAY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the Shenango or Pymatuning creek, a branch of Beaver creek, from the mouth of the same, up to its source be, and the same is hereby declared a public stream or highway, for the passage of rafts, boats or other vessels; and it shall and may be lawful for the inhabitants and others, desirous of using the navigation of the said creek, to remove all the natural obstructions in the said creek; Provided, that any person or persons, owning or possessing land on said creek, shall have liberty to erect any dam or dams across the same, agreeably and subject to all the restrictions and provisions of an act, of the general assembly of this commonwealth, passed the twenty-third day of March, one thousand eight hundred and three,⁽¹⁾ entitled "An act to authorize any person or persons owning lands adjoining navigable streams of water, declared public highways, to erect dams upon such streams for mills and other water-works."

Approved April 4, 1803. Recorded in L. B. No. 9, p. 249.

Note (1). Chapter 2353; Supra this volume, p. 297.

CHAPTER MMCCCXCVIII.

AN ACT TO EMPOWER THE OVERSEERS AND GUARDIANS OF THE POOR OF THE SEVERAL TOWNSHIPS WITHIN THIS COMMONWEALTH TO RECOVER CERTAIN FINES, PENALTIES AND FORFEITURES, AND FOR OTHER PURPOSES.

Whereas certain fines, penalties and forfeitures are by divers acts of assembly, directed to be paid to justices of the peace for the use of the poor: And whereas the means by law pro-

vided for recovering the same from the said justices, are defective and inadequate: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be the duty of any justice of the peace, who shall receive by virtue of any act of assembly, any fine, penalty or forfeiture, appropriated to or for the use of the poor, forthwith to enter at length on his docket the name or names of the person or persons convicted, the offense committed, the amount of the fine, penalty or forfeiture, and the time when the same was paid; and forthwith shall deliver to any constable who may be present at, or whom he shall next see after such conviction, a transcript of such entry or entries; whose duty it shall be, under a penalty of ten dollars, to be recovered before any justice of the peace of the proper county, within twenty days after such delivery to him, to deliver such transcript or transcripts to one of the overseers of the poor of the township to which the forfeiture belongs; and such justice shall, at any time within two weeks after the receipt of such money, if demanded, pay over the same to the overseers of the poor lawfully entitled thereto: And moreover every such justice shall annually, at the settlement of the accounts of the supervisors of the highways, of the township in which he resides, exhibit his docket, if required, to the inspection of those who may be elected for the purpose of settling and adjusting the accounts aforesaid.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That any justice of the peace, for wilfully neglecting, or refusing to perform any of the duties enjoined by this act, shall be liable to be indicted, and on conviction be deemed guilty of misbehavior in office, and fined for the use of the poor of the township in which he shall reside, any sum not exceeding twenty dollars; but if he shall be convicted of neglecting or refusing to pay over to the proper overseers of the poor within the time prescribed by this act, any monies which he shall have received as aforesaid, he shall be fined and pay for the use aforesaid, over and above the

fine last aforesaid, any sum not exceeding double the sum or sums which he shall be convicted of having refused or neglected to pay to the proper overseers of the poor.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of every justice of the peace, or any other person who hath heretofore received any such fines, penalties or forfeitures, and who hath not made payment thereof to the proper overseers of the poor, within six months after the passing of this act, to make out transcripts from his docket, of all such monies by him so received and yet in his hands, and shall forthwith deliver such transcript or transcripts to the constable of the borough or township wherein such conviction did take place, whose duty it shall be under the penalty aforesaid, to deliver the same to the overseers of the poor of his township, within ten days after he shall have received the same; and such justice shall pay over to the said overseers of the poor within twenty days thereafter, if demanded, all such monies so remaining in his hands, and shall moreover at the next settlement of township accounts, after the passing of this act, submit any docket, if required, which he may have kept previous to the passing of this act, to the inspection of the proper borough or township auditors.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That any, and every overseer or overseers of the poor, shall be and are hereby authorized and required, by action of debt, or trespass on the case, to recover before any justice of the peace, or court of common pleas of the proper county, as from the amount the cause shall be more properly cognizable, all the fines, penalties and forfeitures, which now are, or hereafter shall be in the hands of any such justice, if he shall not, within the time prescribed by this act, and after demand in writing for that purpose made, pay over the same to the overseers of the poor entitled thereto.

Section V. (Section V, P. L.) And whereas the fine imposed by law on persons who refuse to serve the office of constable, is now paid into the hands of the sheriff of the proper county, but no provision is made in what manner, and to what

purpose such fines shall be appropriated: Be it therefore enacted by the authority aforesaid, That it shall be the duty of any sheriff in this commonwealth, who hath heretofore received any such fine or fines, within six months from and after the passing of this act, to send a notice in writing to the overseers of the poor of the township, wherein the person or persons who may have been so fined shall have resided, at the time the fine was imposed, informing them therein, as well of the amount in his hands, as of the name or names of the person or persons so fined as aforesaid; which notice he may send by any constable living in or near the proper township, whose duty it shall be to deliver the same to the proper overseers of the poor, within the time and under the penalty mentioned in the third section of this act; and such sheriff shall pay over all and any such monies to the overseers entitled thereto, within ten days thereafter, if demanded, or at any time when the same shall be demanded; and in default of any of the duties imposed by this act on such sheriff, he shall be liable to the same pains, penalties and forfeitures, to which justices of the peace are liable for similar misconduct.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the clerk of any court within this commonwealth, in case any fine be hereafter imposed by such court, on any person who shall refuse to serve the office of constable, forthwith, through any constable living in or near the township, where the person fined resides, to send a written notice thereof to the proper overseers of the poor, informing them as well of the amount of fine imposed, as of the name of the person fined; for which service the said clerk shall receive twenty-five cents, and no more, from the said overseers of the poor; and it shall be the duty of such constable, to deliver the notice within ten days after the receipt of the same, to the overseers of the poor of the proper township, who shall pay him for such service twenty-five cents, to which sum all constables shall be entitled for performing similar services enjoined by this act; and the sheriff shall, after he hath received the said fines, pay over the same on demand made, to the proper overseers of the poor,

and if he shall refuse so to do within ten days after such demand made, he shall be subject to all the pains, penalties and forfeitures to which justices of the peace are liable by this act for similar misconduct.

Section VII. (Section VII, P. L.) And whereas by an act passed the twenty-seventh day of February, one thousand seven hundred and ninety-eight,⁽¹⁾ provision is made for the erection of houses for the employment and support of the poor in the counties of Chester and Lancaster, in and whereby the office of overseers of the poor, is abolished in the said counties; Therefore, be it further enacted by the authority aforesaid, that the powers conferred and duties imposed by this act on the overseers of the poor in other counties, are hereby conferred and imposed on the supervisors of the highways in the said counties of Chester and Lancaster; that the justices of the peace and sheriffs within the said counties are hereby required and enjoined to pay to the said supervisors, to be applied for the repair of the highways, the aforesaid fines, penalties and forfeitures, within the time, and in the manner prescribed by this act, for the payment thereof in other counties to the overseers of the poor; and to give notice of the receipt thereof to the said supervisors, within the time and in the manner aforesaid; and that for any neglect or refusal to perform any of the duties enjoined on them by this act, the said justices of the peace and sheriffs in the counties of Chester and Lancaster, shall and hereby are declared to be subject to all the fines, pains, penalties and forfeitures, to which, for similar misconduct, the justices of the peace and sheriffs in other counties are by this act made subject and liable.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That all and singular the provisions of this act, respecting the disposal of any fines and forfeitures incurred under the laws of this commonwealth, and now are or hereafter may be in the hands of any justice of the peace, or sheriff of any county within the state, shall be extended to, and be binding on the mayor, aldermen and aldermen's court of the city of Philadelphia, and the justices of the peace of the township of the Northern Liberties and the

district of Southwark; and all fines and forfeitures that have been, or hereafter may be received by the mayor, aldermen, aldermen's court and justices of the peace as aforesaid, shall be paid to the guardians of the poor for the city of Philadelphia, the township of the Northern Liberties, and the district of Southwark aforesaid, and the constables of the city, township and district aforesaid, shall perform the like services, and be entitled to the like compensations, as the constables of any township within this state are entitled to, for services rendered agreeably to the requisitions of this act; and the mayor, aldermen and aldermen's court of the city of Philadelphia, and the justices of the peace of the township of the Northern Liberties and district of Southwark, shall annually at the settlement of the accounts of the guardians of the poor of said city, township and district, by the auditors appointed for the purpose, exhibit their respective dockets, if required, for the inspection of the said auditors for settlement.

Approved April 4, 1803. Recorded in L. B. No. 9, p. 250.
Note (*). Chapter 1971; 16 Statutes at Large, p. 15.

CHAPTER MMCCCXCIX.

AN ACT TO AUTHORIZE DEPUTY SURVEYORS OR ASSISTANTS TO ADMINISTER OATHS TO CHAIN CARRIERS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be lawful for deputy surveyors or their regularly authorized assistants, to administer an oath or affirmation, to the persons employed as chain carriers, obliging each of them to the faithful performance of the duty of chain carriers.

Approved April 4, 1803. Recorded in L. B. No. 9, p. 256.

CHAPTER MMCD.

AN ACT TO ALTER AND AMEND THE ACT, ENTITLED "AN ACT TO REGULATE THE GENERAL ELECTIONS WITHIN THIS COMMONWEALTH"⁽¹⁾.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That any judge of the court of common pleas, alderman or justice of the peace, who may be present at the election, shall administer the oaths or affirmations directed by the act, passed the fifteenth of February, one thousand seven hundred and ninety-nine, entitled "An act to regulate the general elections of this state,"⁽¹⁾ to be taken by the judges, inspectors and clerks of the election; but if no judge, alderman, or justice of the peace be present at the election, or cannot be conveniently had, one of the judges, after first having the oath or affirmation required by the aforesaid act administered to him by one of the other judges, shall administer the oaths or affirmations to the other judges, and to the inspectors and clerks, and the powers and duties heretofore assigned to agents, shall henceforth cease.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That if the assessor of any township, borough or ward, knowing a person liable by law to be assessed, shall refuse or neglect to assess and return him to the commissioners of the county, such assessor, being thereof convicted before any justice of the peace, or court of quarter sessions of the peace, shall for every such refusal or neglect, be fined, and pay to the use of the poor, of the city, borough, county or township where the party aggrieved resides, besides the costs of prosecution, any sum not less than twenty nor more than twenty-six dollars; and if in the alphabetical list of taxables, directed by law to be delivered to the inspectors of the several election districts, the commissioners aforesaid, shall wilfully omit to insert the name of any person duly assessed and returned to them by such assessor as

aforesaid, and shall be thereof convicted, before any court of quarter sessions, they shall for every such wilful omission be fined and severally pay, besides the costs of prosecution, any sum not exceeding sixty nor less than thirty dollars, to the use of the poor of the city, borough, county or township where the person whose name shall so as aforesaid be omitted, in the said list of taxables resides; and the party aggrieved shall in every case be a competent witness, to prove such refusal, neglect or wilful omission, any law or usage to the contrary thereof, in any wise notwithstanding.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the inspectors of the general election shall be chosen by ballot, at the time and manner as is directed in the second section of the act, entitled "An act to regulate the general elections within this commonwealth," passed the fifteenth of February, one thousand seven hundred and ninety-nine,⁽¹⁾ except as to the time of closing the poll in the city of Philadelphia, the township of the Northern Liberties and the district of Southwark, where the same may be kept open, until nine o'clock in the same evening.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That no body of troops, being regularly employed in the army of the United States or of this state, shall appear and be present, either armed or unarmed, at any place of election within this state, during the time of said election: Provided, that nothing herein contained shall be so construed, as to prevent any officer or soldier from exercising the right of suffrage, in the district to which he belongs, if otherwise qualified agreeably to the laws and constitution of this commonwealth.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the commissioners of the several counties within this commonwealth, to cause to be delivered to the inspectors of the several election districts within their respective counties, on or before nine of the clock of the morning of the election, a separate alphabetical list of the names and surnames, of

all the male taxable persons of each ward, borough and township, inhabiting within the same, who have been assessed for a state or county tax, at least six months before that day; and also a sufficient number of blank forms and returns, made out in a proper manner, and headed as the nature of the election may require, which lists, forms and returns shall be delivered as aforesaid, under the penalty of fifty dollars, on each commissioner for every such neglect thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That in cases in which counties consist of more than one election district, or in cases where one or more members of congress, or members of the senate or house of representatives of the general assembly of the commonwealth, are to be elected, and in case of the election of governor, the judges from each county, and the judges from each election district, whose duty it shall be, agreeably to the aforesaid act, to take charge of the certificate or certificates of the elections of said counties or districts, when met, shall, at the place and the time appointed by law, cast up the several county or district returns as the case may be, and make duplicate returns of the person or persons chosen for the county or counties, if there is more than one county connected in the election; and one of each returns, if there are more than one, shall be deposited in the prothonotary's office of the county, in which they meet; and one other of the returns under a sealed cover, directed to the secretary of the commonwealth, shall be by the said judges placed in one of the nearest post offices; and it shall also be the duty of the said judges to transmit to each of the persons elected to serve in congress, or in the senate or house of representatives, a certificate of the returns of his election; and each judge who shall attend to cast up and make out the said returns shall be allowed ten cents for every mile which he shall necessarily travel in performing that service: Provided however, that daily wages shall not be allowed to judges or inspectors.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That all and every part of

the aforesaid act, entitled, "An act to regulate the general elections of this state," passed the fifteenth of February, one thousand seven hundred and ninety-nine,⁽¹⁾ which is by this act, altered, amended, or supplied, be, and the same is hereby repealed and made null and void."

Approved April 4, 1803. Recorded in L. B. No. 9, p. 256.

Note (1). Chapter 2020; 16 Statutes at Large, p. 163.

ACTS
OF THE
GENERAL ASSEMBLY
OF
PENNSYLVANIA,

PASSED AT A SESSION WHICH WAS BEGUN AND HELD AT LANCASTER
ON TUESDAY, DECEMBER 6TH, 1803, AND THENCE CONTINUED
UNTIL APRIL 3D, 1804 (INCLUSIVE).

CHAPTER MMCDI.

AN ACT TO REVIVE THE ACT, ENTITLED "A SUPPLEMENT TO THE
ACT, ENTITLED 'AN ACT TO EXTEND THE POWERS OF THE JUSTICES
OF THE PEACE OF THIS STATE (1).'"

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the act, entitled "A supplement to the act, entitled "An act to extend the powers of the justices of the peace of this state," passed the first day of March, one thousand seven hundred and ninety-nine,⁽¹⁾ and every matter therein contained (except the limitation thereof) be, and the same is hereby revived and made perpetual.

Recorded in L. B. No. 9, page 265.

Note (1). Chapter 2023; 16 Statutes at Large, p. 187.

I DO hereby certify, that the bill, entitled "An act to revive the act, entitled "A supplement to the act, entitled "An act to extend the powers of the justices of the peace of this state," which has been disapproved by the Governor, and re-

turned, with his objections, to the House of Representatives, in which it originated, has been approved of and passed on the twenty-second day of December, one thousand eight hundred and three, by two-thirds of the House of Representatives, agreeably to the directions of the constitution in such case made and provided; and that the forgoing is the act so approved of by the House of Representatives.

SIMON SNYDER, Speaker

of the House of Representatives.

Attest,

Matthew Huston, C. H. R.

I DO hereby certify, that the bill, entitled "An act to revive the act, entitled "A supplement to the act, entitled "An act to extend the powers of the justices of the peace of this state," which has been disapproved by the Governor, and returned, with his objections, to the House of Representatives, in which it originated, has been approved of and passed on the second day of January, one thousand eight hundred and four, by two-thirds of the Senate, agreeably to the directions of the constitution in such case made and provided; and that the foregoing is the act so approved of by the Senate.

ROBERT WHITEHILL, Speaker

of the Senate.

George Bryan, C. S.

CHAPTER MMCDII.

AN ACT FOR THE INSPECTION OF BUTTER INTENDED FOR EXPORTATION.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all butter exported from any port or place on the river Delaware, within this commonwealth, after the first day of October, one thousand eight hundred and four, shall, before exportation, be inspected by

a person or persons appointed and commissioned by the governor; each of whom so appointed shall before he enters on the duties of his office, make oath or affirmation before the mayor or any alderman of the city of Philadelphia, or justice of the peace for the county in which he or they shall have been appointed, faithfully and impartially to perform his duty and trust to the best of his capacity and skill, according to the directions of this act; and shall have power to appoint a deputy or deputies, who shall, before entering on the duties herein prescribed, take the oath or affirmation aforesaid.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That every keg containing butter for exportation as aforesaid, after the first day of October, one thousand eight hundred and four, shall contain fifty pounds of butter, sufficiently salted for exportation, and shall be packed in kegs of the following dimensions, viz. the staves to be of the length of sixteen and one half inches; diameter of the head eleven inches; and the diameter of the bulge thirteen inches; and made of sound and well seasoned timber, with at least ten hoops on each keg, and fastened with three iron nails in each head hoop; each keg shall be weighed and tared, and the tare marked on one of the heads with a marking iron in legible characters.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That every keg containing butter shall be inspected before it be laden on board of any vessel for exportation, by boring a hole through the head, and piercing the butter through with a proper instrument, in order to ascertain the quality thereof; and if any inspector appointed as aforesaid, finds the butter of first quality, he shall brand the keg with the letters S. P. first quality; and if found merchantable, but inferior to the first, he shall brand it S. P. second quality; and if found not merchantable, then the said inspector shall impress and brand a distinct mark of a X. thus (each stroke of the said cross shall be at least two inches long) on one head of every such keg containing butter as aforesaid.

Section IV. (Section IV, P. L.) And be it further enacted

by the authority aforesaid, That every person or persons who shall load on board of any vessel in the river Delaware within this commonwealth, any butter not inspected and marked as merchantable, shall forfeit and pay for every keg so laden contrary to this act, one dollar; and all, and every person or persons who shall export butter as aforesaid, in other or different kind of kegs, than is hereby directed or described, and containing less than fifty pounds of butter, shall forfeit and pay for each and every such offense, one dollar for each keg, one moiety of such fines for the use of the informer, and the other moiety to the inspector for the use of the commonwealth, to be recovered as other debts of equal amount, are by law recoverable.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said inspectors shall and may lawfully demand, receive and take the sum of four cents, and no more, for inspecting, examining, branding and plugging each, and every keg; together with such other and further allowance and compensation, as shall and may be reasonable and customary for the expense and trouble of cooperage, and putting the same into good and merchantable order and condition: Provided, it shall and may be lawful to and for the owner or owners of the said butter, his or their agents, to employ any person or persons other than the said inspectors, to perform the cooperage necessary to put the same in good and merchantable order and condition as aforesaid; the expense of inspection to be paid by the purchasers, and the expense of cooperage, if any be necessary, to be paid by the seller.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the ninth section of the act, entitled "A supplement to an act, entitled, 'An act, more effectually to prevent unfair practices in the packing of beef and pork for exportation, and to regulate the exportation of flaxseed, butter and biscuit in kegs,' " passed the twelfth day of March, one thousand seven hundred and eighty-nine,⁽¹⁾ shall be, and the same is hereby repealed.

Approved January 7, 1804. Recorded in L. B. No. 9, 266.

Note (*). Chapter 1395; 13 Statutes at Large, p. 215.

CHAPTER MMCDIII.

AN ACT TO RATIFY ON BEHALF OF THE STATE OF PENNSYLVANIA,
AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES,
RELATIVE TO THE CHOOSING OF A PRESIDENT AND VICE PRESI-
DENT OF THE UNITED STATES.

Whereas, in pursuance of the fifth article of the constitution of the United States, a certain amendment, in lieu of the third paragraph of the first section of the second article of the constitution of the United States, has been proposed by the Congress of the United States, two-thirds of both houses concurring, for the consideration of the legislature of the several states: And whereas, the legislature of Pennsylvania, having maturely deliberated thereon, have resolved to adopt and ratify the same, as hereinafter recited, as part of the constitution of the United States: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the following amendment of the constitution of the United States proposed by the Congress thereof, viz. "The electors shall meet in their respective states, and vote, by ballot, for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves, they shall name in their ballots, the person voted for as president, and in distinct ballots the person voted for as vice president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president, shall be president, if such number be a majority of the whole number of electors appointed; and if

no person have such majority, then from the persons having the highest numbers, not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president; but in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum, for this purpose, shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice; and if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other constitutional disability of the president; the person having the greatest number of votes as vice president shall be vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice president; a quorum, for the purpose, shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice; but no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States," in lieu of the third paragraph of the first section of the second article of the constitution of the United States, be, and it is hereby ratified on behalf of the state of Pennsylvania, to become, when ratified by the legislatures of three fourths of the several states, part of the constitution of the United States.

Approved January 7, 1804. Recorded in L. B. No. 9, p. 268.

CHAPTER MMCDIV.

AN ACT ALTERING AND ERECTING CERTAIN ELECTION DISTRICTS IN THE COUNTY OF SOMERSET.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That from and after the passing of this act, all that part of Stony creek township in Somerset county, lying north of a line beginning at Somerset township line, near Schriocks cabin, from hence a straight line to the mouth of Neymayers creek, thence up said creek to the mouth of Clear run, thence up said run to the forks thereof, thence up the northerly fork of said run to the head thereof, and from thence a straight line to the breast works where it strikes the division line of Bedford and Somerset counties, shall be annexed to the Quimahoning district, and the electors thereof shall hold their general elections at the house now occupied by John Powl, in Stoystown.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, all that part of Stony creek township, in Somerset county, lying south of a line described in the foregoing section, shall be annexed to the district of Brothers valley township, and the electors thereof shall hold their general elections at the house now occupied by John Flacher, in the town of Berlin.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the township of Elclick, in Somerset county, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by John Welch in Elclick township aforesaid.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the township of Addison, in Somerset county, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by John Mitchell, esquire, in Addison township aforesaid; any law or laws to the contrary notwithstanding.

Approved January 7, 1804. Recorded in L. B. No. 9, p. 270.

CHAPTER MMCDV.

AN ACT TO QUIET THE CLAIM OF JAMES GUNN, TO THE ESTATES, REAL AND PERSONAL, OF GENERAL JAMES GUNN, DECEASED.

Whereas, it is represented to the legislature, that general James Gunn, late a senator of the United States from the state of Georgia, died without issue, and, as it is supposed, testate, seized and possessed of certain estates, real, personal and mixed, within this commonwealth; and it has been suggested that the said estates have escheated for want of heirs, or any known kindred of the said general James Gunn: And whereas, it is recited in an act of the general assembly of the state of Georgia, entitled "An act to quiet the claim of James Gunn to the estates, real and personal, of general James Gunn, deceased,"^a passed on the twenty-second day of November, in the year one thousand eight hundred and two, that "it appeared from the strongest presumptive testimony, that the said general James Gunn left a will and testament, but that the same has been lost or destroyed, so that there is no probability of its being found; and that it also appeared to have been the wish, desire, and intention of the said general James Gunn, that his nephew James Gunn, of the state of Virginia, should inherit, possess, and enjoy his estate, real and personal." And whereas, the justice and liberality of the state will not permit any pecuniary advantage to be derived from an escheat, under such circumstances: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all and every the right, title, interest, claim and demand, which this commonwealth may have acquired, by reason of any escheat, or supposed escheat, for want of heirs, or known kindred of general James Gunn, late of the state of Georgia, deceased, of, into, and out of the estates, real, personal and mixed, whereof the said general James Gunn died seized and possessed, or where-

unto he was in anywise legally entitled within this state, or any part thereof, shall be, and the same hereby are vested in James Gunn, of the state of Virginia, nephew of the said general James Gunn, to be had and held by him, his heirs, executors, administrators and assigns, forever; subject nevertheless to the satisfaction and payment of all just liens, debts, claims and demands whatsoever.

Approved January 7, 1804. Recorded in L. B. No. 9, p. 271.

CHAPTER MMCDVI.

AN ACT AUTHORIZING ELIZABETH SHINER, CHRISTIAN SHINER AND JOHN NEYMAN, ADMINISTRATORS OF CHRISTOPHEL SHINER, DECEASED, TO CONVEY A CERTAIN MESSUAGE AND TRACT OF LAND, SITUATE IN NEW HANOVER TOWNSHIP, IN THE COUNTY OF MONTGOMERY.

Whereas Elizabeth Shiner, Christian Shiner and John Neyman, administrators of Christophel Shiner, late of Colebrookdale township, in the county of Berks, deceased, by their petition to the general assembly of this commonwealth, have set forth that Melchior Shiner, late of New Hanover township, in the county of (then Philadelphia, now) Montgomery, deceased, at the time of his decease, being possessed and seized in his demesne as of fee in and to a certain messuage, tenement, and tract or piece of land, situate in the township of New Hanover aforesaid, and containing about one hundred and forty acres, having first made his last will and testament, bearing date the nineteenth day of June, one thousand seven hundred and seventy-eight, duly proved and remaining in the register's office, for the city and county of Philadelphia; wherein the testator ordered and directed, that after the decease of his widow, the said premises should be sold at public sale, and empowered his son, Christophel Shiner, to give deed or deeds, to the purchaser or purchasers thereof; that the said widow (late wife of the said Melchior Shiner) having since also deceased; that the said Christophel Shiner, in compliance with the directions of the said will, on the second day

of January, one thousand eight hundred and two, after due and public notice first given, exposed the same to public sale, which was struck off to Amos Jones, at the rate of three pounds, and sixteen shillings per acre, he being the highest and best bidder; that the said Christophel Shiner, since the sale of the said premises, having also died intestate, and no actual conveyance having been made unto the said Amos Jones: And whereas doubts have arisen in the minds of the court of the county of Montgomery aforesaid, as to the right of the said administrators, under the existing laws, to make the conveyance: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Elizabeth Shiner, Christian Shiner, and John Neyman, the administrators of Christophel Shiner, late of Colebrookdale township, in the county of Berks, deceased, or the survivor of them, be, and they are hereby authorized to convey in fee simple, unto Amos Jones, all that messuage, tenement and tract or piece of land, containing about one hundred and forty acres, situate in New Hanover township, in the county of Montgomery, late the property of Melchior Shiner, deceased, which conveyance shall be equally valid as if the said Christophel Shiner had made the same in his lifetime.

Approved January 14, 1804. Recorded in L. B. No. 9, p. 273.

CHAPTER MMCDVII.

AN ACT DIRECTING THE MODE OF TAKING TESTIMONY IN CASES OF COMPLAINT AGAINST JUSTICES OF THE PEACE.

Whereas frequent applications are made to the legislature for the removal of justices of the peace from office: And whereas the parties frequently reside so far from the seat of government, as in a great measure to prevent that full and fair examination of witnesses, and investigation of the subject, which the nature of the case requires: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be the duty of the chief justice of the state, or any other of the justices of the supreme court, or the president, or any associate judge of any of the courts of common pleas, on complaint made in writing, signed by at least twenty of the taxable inhabitants of any township, or county, against any justice of the peace residing therein, to issue his process to any constable, commanding him to summon the said justice so complained of as aforesaid, to appear before him on a day to be mentioned therein, which shall not be more than ten nor less than five days from the date of such process; and also to issue compulsory process to compel the attendance, as well of the witnesses named by the complainant's, as those whom such justice of the peace shall require in his behalf; and on the day appointed for a hearing, the said judge shall proceed to examine on oath or affirmation, all such witnesses as may appear, as well those who may be produced to substantiate any of the charges against such justice of the peace, as those whom he may produce in his behalf, and shall fairly, carefully, and impartially write down all depositions, cross-examinations, and interrogatories as aforesaid taken, and shall thereupon seal up, and transmit the same to the secretary of the commonwealth, who shall lay them before the legislature.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That each witness for attendance before any judge, in conformity to the provisions of this act, shall be allowed for each day spent as aforesaid, fifty cents, and the constable serving each process, shall be allowed such fees, as he is entitled to by law for similar services under legal process from a justice of the peace: And the judge shall transmit a certified schedule, or list of the names of the witnesses, and the time they respectively attended, together with the account of the costs upon each process served by the constable, to the commissioners of the county, and the expense of such attendance and service, together with all other

necessary expenses arising under the provisions of this act, shall be paid out of the monies raised for the use of the proper county, in which such justice resides, upon warrants drawn by the commissioners of the county, upon the county treasurer.

Approved January 14, 1804. Recorded in L. B. No. 9, p. 274.

CHAPTER MMCDVIII.

AN ACT FOR THE RELIEF OF JOHN LONEY.

Whereas, John Loney, by his petition to this legislature, and sundry documents, hath fully shown, that in the month of June, in the year one thousand seven hundred and ninety-seven, he settled on a tract of land, on the head waters of Oil creek, in Union township, Erie county, and continued, with his family, to reside thereon, until the month of March, one thousand seven hundred and ninety-nine; having, in that time, cleared eight or ten acres of land; when by the fall of a tree, he was crushed and wounded, so as to render him incapable of prosecuting his improvement, and continuing his residence; and has since, in a great measure been supported by the charity of others; and that he is still a cripple, and likely to continue so for life: And whereas, the said John Loney prays the legislature, that he may be exonerated from the condition of further residence: And whereas, it appears, by sundry certificates, that there is no other person claiming said tract of land: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That John Loney be, and he is hereby exonerated from the condition of further residence and improvement on the aforesaid tract of land; and the officers of the land office are hereby authorized and required, to complete a title to the aforesaid tract of land to John Loney, or his heirs; he or they paying the purchase money, and usual fees of office: Provided always, that nothing in

this act contained, shall be construed to affect any lawful claim that any other person or persons, may have in the premises aforesaid.

Approved January 14, 1804. Recorded in L. B. No. 9, p. 276.

CHAPTER MMCDXIX.

AN ACT ENABLING CERTAIN TRUSTEES TO SELL AND DISPOSE OF THE REAL ESTATE OF HENRY MECKLEY, A LUNATIC.

Whereas it appears by the proceedings had in the court of common pleas of the county of York, that a certain Henry Meckley, of said county, has been adjudged a lunatic, and that George Meckley, Anthony Willet, and Jacob Keller, were by the said court, appointed trustees to take care of the person and estate of said Henry Meckley: And whereas said trustees have represented to the legislature, that the estate of said Henry Meckley, is so incumbered with debts, that it would be more to the interest of the said Henry Meckley, and his heirs, to sell at least a part of said estate, to liberate the residue from the pressure of those debts: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall, and may be lawful for George Meckley, Anthony Willet, and Jacob Keller, or a majority of them, to sell and convey all the real estate of Henry Meckley, a lunatic, or such part, or parts thereof, as to them may appear necessary, for the payment of the debts, and maintenance, and support of said lunatic; and also to make to the purchaser, or purchasers, such deed, or deeds, as will assure and convey to the said purchaser or purchasers, all the right, title, and interest, which the said lunatic hath in such real estate: Provided, that the said George Meckley, Anthony Willet, and Jacob Keller, or a majority of them, shall, before they proceed to sell, or convey, any part of the estate of Henry Meckley, enter into recognizance, with suffi-

cient sureties, before the court of common pleas, in York county, where said estate lies, that all the money arising from the sales authorized by this act, shall, after paying the debts, be so disposed of by them, as will be most for the interest of the said Henery Meckley, and his heirs.

Approved January 14, 1804. Recorded in Book No. 9, p. 277.

CHAPTER MMCDX.

AN ACT TO ALTER THE LIMITS OF THE BOROUGH OF BEAVER.

Whereas sundry inhabitants situate within the present bounds of the borough of Beaver, have represented to the legislature, that for the property they possess on the easterly side of Big Beaver creek, within the limits of the said borough, they are subjected to taxes, and sundry expenses, for the improvement and advantage of the town, which is situate on the westerly side of said creek; and that they receive no equivalent benefits from the corporation: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, all lands situate on the easterly side of Big Beaver creek, which have been included within the limits of the borough of Beaver, shall be exempt from all assessments and charges on account of said incorporation, and shall be considered as separate from said borough, and lying without the limits of the same; any former law or laws to the contrary notwithstanding.

Approved January 14, 1804. Recorded in L. B. No. 9, p. 278.

CHAPTER MMCDXI.

AN ACT TO DISSOLVE THE MARRIAGE CONTRACT BETWEEN SAMUEL SWAN AND HANNAH HIS WIFE.

Whereas, Hannah Swan, of Northumberland county, by her petition to the legislature, hath represented, that in the year one thousand seven hundred and eighty-one, she was married to Samuel Swan, with whom she lived until the year one thousand seven hundred and ninety-one; that in the month of May, of the said year, the said Swan relinquished her, and never returned; and that the said Samuel Swan, in the year one thousand seven hundred and ninety-five, was married to and cohabits with another woman: And whereas, it appears by other testimony, that the said Samuel Swan was actually inter-married and cohabits with another woman, and now or late residing in the state of Kentucky: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the marriage contract of the said Samuel Swan and Hannah his wife be, and the same hereby is declared to be annulled and void, to all intents and purposes whatsoever; and they are hereby respectively declared to be separate, set free, and totally discharged from the matrimonial contract, and from all duties and obligations arising therefrom, as fully, effectually and absolutely, as if they had never been joined in matrimony; any law, custom or usage, to the contrary notwithstanding.

Approved January 20, 1804. Recorded in L. B. No. 9, p. 279.

CHAPTER MMCDXII.

AN ACT IN AID OF THE NORTHUMBERLAND ACADEMY IN THE TOWN AND COUNTY OF NORTHUMBERLAND.

Whereas, it is represented to the legislature that the trustees of Northumberland Academy have erected a building for

that institution, but owing to the failure of sundry principal subscribers, they are unable to finish the same or discharge the debts already contracted; and the said trustees have prayed for legislative aid in the premises: And whereas, it is represented, that Doctor Joseph Priestly has the disposal of a valuable library of scarce and well-assorted books, in various branches of literature and science, which he is desirous and has the power of procuring as a gift to Northumberland Academy, provided that institution is likely to receive substantial aid from the state: And whereas, it has ever been the enlightened policy of Pennsylvania, to encourage and cherish seminaries of useful learning: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That two thousand dollars of the arrearages of state taxes now due from the county of Northumberland, be, and are hereby granted to the trustees of the Northumberland Academy, to and for the use of that institution; to be paid by the treasurer of said county, out of the arrearages of state taxes that hereafter may come into his hands; which sum so paid shall be allowed said treasurer on the settlement of his accounts.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That whenever Doctor Joseph Priestly, or any person by him for that purpose appointed, shall certify to the governor of this commonwealth, that he hath a library of not less than two thousand volumes, of such as may be selected and approved by the trustees of the said institution, or a majority of them, ready to appropriate as a donation to the Northumberland Academy, the governor shall be authorized to appoint two persons, disinterested, who shall not reside within the county of Northumberland, to value the same; which valuation the governor shall report to the legislature at their next session, together with a catalogue of said books, recommending an appropriation or donation of money, to and for the use of said institution, equal to the aforesaid

valuation: Provided, that such valuation shall not amount to more than three thousand dollars.

Approved January 20, 1804. Recorded in L. B. No. 9, p. 280.

CHAPTER MMCDXIII.

AN ACT ERECTING THE TOWNSHIPS OF ROCKHILL, BEDMINSTER, AND HILLTOWN, IN THE COUNTY OF BUCKS, INTO AN ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the townships of Rockhill, Bedminster, and Hilltown, in Bucks county, shall form an election district; and the electors thereof shall hold their general elections at the house now occupied by Henry Trumbour, in Rockhill township aforesaid; any law to the contrary notwithstanding.

Approved January 20, 1804. Recorded in L. B. No. 9, p. 282.

CHAPTER MMCDXIV.

AN ACT FOR THE RELIEF OF ALEXANDER BOATICAR.

Whereas, Alexander Boaticar, a native of the kingdom of Great Britain, hath represented to the legislature, that having arrived in this state with an intention of residing therein, in the month of July, one thousand eight hundred and two, he purchased of William Read and Matthew Pearce, two messuages and tracts of land, at Creesham, otherwise called Chestnut Hill, in the township of Germantown, in the county of Philadelphia; one of said tracts bounded by land late in the tenure of Wiggard Miller, by land late of Samuel Mummy, being the tract herein next after described, by Philadelphia and Plymouth great road, by land of Michael Milberger, by a two-perch wide road leading back to a paper-mill and grist-

mill, by land now or late of Abraham Tunis, and by the line of Roxborough township, containing, by computation, one hundred and twenty-four acres and three-quarters of an acre of land, be the same more or less; and the other of the said tracts bounded by the westerly side of Plymouth great road, by land of Wiggard Miller, by the late Julius Karper's land, being the tract hereinbefore described, containing six acres one hundred and ten perches; and the said Alexander Boaticar hath since sold the above described real estates to Lewis Bollman, who objects to the payment of the purchase money therefor, because the said Alexander, at the time of his purchase aforesaid, was an alien, and had not then made a declaration of his intention of becoming a citizen of the United States, as by the act, entitled, "An act to enable aliens in certain cases to purchase and hold real estate within this commonwealth," passed the eleventh day of April, one thousand seven hundred and ninety-nine,⁽¹⁾ is required: And whereas, it appears that the aforesaid omission, on the part of the said Alexander, arose from his not being acquainted with the provisions of the said act, and he hath since made a declaration pursuant thereto, in the court of common pleas of Philadelphia county; and the said Alexander hath prayed that the title acquired and derived through him to the real estates aforesaid, should receive a legislative confirmation; and it is deemed reasonable that his prayer should be complied with: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the title to all and singular the above described real estates with the appurtenances, acquired by the said Alexander Boaticar, by the deed of indenture made to him by the above named William Reed and Ann his wife, and Matthew Pearce and Mary his wife, bearing date the fifth day of August, one thousand eight hundred and two, recorded in the office for recording of deeds of the city and county of Philadelphia, in deed book E. F. No. 9, page 532, &c. shall be deemed and taken to have been as firm,

valid, and effectual in law; and the title conveyed by the said Alexander Boatcar and Lucy his wife to the said Lewis Bollman, by their deed of indenture, bearing date the twelfth day of August, one thousand eight hundred and three, recorded in the office aforesaid, in deed book E. F. No. 15, page 178, &c. shall be and remain as firm, valid, and effectual in law, to all intents and purposes whatsoever, as if the said Alexander Boatcar had previous thereto taken and subscribed a declaration of his intention to become a citizen of the United States; anything in the aforesaid act, entitled "An act to enable aliens, in certain cases, to purchase and hold real estate within this commonwealth,"⁽¹⁾ or in any other act to the contrary thereof in anywise notwithstanding.

Approved January 30, 1804. Recorded in L. B. No. 9, p. 283.
Note (1). Chapter 2088; 16 Statutes at Large, p. 337.

CHAPTER MMCDXV.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO ENABLE THE OWNERS OF GREENWICH ISLAND TO EMBANK AND DRAIN THE SAME, TO KEEP THE OUTSIDE BANKS AND DAMS IN GOOD REPAIR FOREVER, AND TO RAISE A FUND TO DEFRAY SUNDRY CONTINGENT YEARLY EXPENSES ACCRUING THEREON." (1).

Whereas the act, to which this is a supplement, passed the twelfth day of April, anno domini one thousand seven hundred and sixty,⁽¹⁾ hath been found inadequate to the objects proposed by it, and the owners of the said island, having represented the same to the legislature, and requested that more adequate means might be provided for enabling them to keep the said tract of land in good repair at all times, by a just and equal assessment of the property of each owner for the benefit of the whole, and such request appearing reasonable and proper: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall be the duty of the managers, or a ma-

jority of them, elected, or to be elected, by virtue of this act, or the act⁽¹⁾ to which this is a supplement, when and so often as they shall judge necessary, to estimate or cause to be estimated, the expenses requisite for making, repairing, and keeping in good repair, all and every the banks, dams, sluices, flood-gates, footing-drains, and footings, or spaces, so called, between the footing-drains and banks, in all and every part of the said tract of land, or meadow, without regard to any allotments, divisions, or districts, at any time heretofore made, in pursuance of the aforesaid act; and to ascertain the names of all and every the owners, or possessors of each and every acre of land on the said island, and having so estimated the whole expense deemed necessary for any one year, and ascertained the names of the owners, and possessors thereof, or their legal representatives, to proceed to rate, and assess each, and every owner, or possessor fairly, and equally, his, or her proportionable part, per acre, of said sum, according to the quantity and quality of land, so by him, or her owned, or possessed; and if the said sum, so estimated, shall not prove sufficient for the purposes aforesaid, in any one year, then, so often as it shall be deemed necessary, to proceed in like manner, to estimate what additional sum shall be thought sufficient in said year, and the same to rate and assess proportionably, and fairly as aforesaid, to every owner, or possessor, his, or her legal representatives.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said managers, or any three of them shall regulate the assessments, and cause fair lists thereof to be made, and shall issue their warrants, with the lists aforesaid, directed to the treasurer, authorizing and requiring him to demand, and receive, of and from every person in such list, his, or her legal representative, the sum wherewith such person is charged; and if any person shall neglect or refuse to make payment, within thirty days from the time of such demand, it shall be the duty of the said treasurer, to levy, or cause to be levied, the said tax, and the costs attending such levy, by distress and sale of the goods, and chattels, lands, and tenements, of the said delinquent, in

such manner as is prescribed by the act, entitled "An act to raise and collect county rates and levies," passed the eleventh day of April, anno domini one thousand seven hundred and ninety-nine,⁽²⁾ such sum if paid or recovered from a renter, to be deducted from his rent.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the managers for the time being, or any three of them, shall have the power of disposing of all monies paid to the treasurer by virtue of this act, and of appointing such person, or persons from time to time, as they shall think necessary, to enter upon all, and every part of the said island, for the purpose of inspecting, making and repairing, all, and every the dams, banks, sluices, flood-gates, footings, and every other thing requisite to the complete draining, and embanking all, and every part of the said island, without regard to any allotments, divisions, or districts, heretofore made, and without notice to any owner or possessor, to make or repair their respective parts; it being the express intent and meaning of this act, that all the banks, dams, flood-gates, sluices, footing-drains, and footings, or spaces so called, between the footing-drains and banks, and other devices, for the complete draining, and embanking of said tract of land, or island (the division, and internal ditches excepted) shall be made, and repaired by, and under the superintendence of the managers, or a majority of them, to be chosen as aforesaid.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That all monies now due, and owing, according to the provisions of the aforesaid act, shall be recovered in the manner hereinbefore prescribed, for the recovery of sums hereafter to be assessed, unless the same shall be paid to the treasurer within thirty days after the passing of this act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That it shall, and may be lawful for the managers, or a majority of them, their agents and servants, from time to time, and at all times, to have free ingress, egress, and regress into, upon, through, and out of

the said tract of land, or meadow, with, or without horses, carts, and wagons, and to dig and remove, on and from the part of any owner thereof, any earth, or materials, for the making or repairing the said banks, dams, or other parts of the said meadow, and also for the purpose of draining the water from any low parts of the said meadow, through any adjacent ground, by means of ditches through the same; the expense of which ditch, or ditches, through such low ground, shall be paid by the individual owning it, or out of the general fund, as the benefit may be thought general, or particular, at the discretion of the managers; unless such low ground should belong to any, or either of the said managers; in which case the right of estimating and determining, as well the amount, as the fund out of which the same is to be paid, shall be determined by the manager or managers, who is, or are not interested; and in all cases of carrying drains for such last mentioned purpose, through the adjacent ground of an individual, or of digging and removing earth, on and from the part of any individual, the said managers shall allow and pay to the person injured, the amount of the damage, if any, by him sustained, which amount, in case of disagreement between such owner and manager, shall be ascertained in the manner prescribed for settling disputes in the act,⁽¹⁾ to which this is a supplement.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That if the owners or possessors of said tract of land, shall neglect to attend at the time, and to proceed in the manner prescribed by this act, for holding the elections for managers and treasurer, in any year, that the managers and treasurer of the preceding year, or the survivors of them, or a majority of such survivors, shall, and may lawfully use and exercise all the powers, which might have been used by managers annually elected, until such election shall be held.

Section VII. (Section VII, P. L.) And whereas, the time for holding the elections prescribed by the said act is inconvenient, be it therefore enacted by the authority aforesaid, That the next election for managers and a treasurer, shall be

held at the usual place, on the first Monday in March next, between the hours of three and five o'clock in the afternoon, and at the same time and place, on the first Monday in March in every year thereafter; unless the managers, or a majority of them shall appoint a different time and place, of which at least three days public notice shall be given, in two of the public newspapers printed in Philadelphia; the officers to be chosen on the first Monday in March next, to serve from the expiration of the time of the present officers, until the first Monday in March, which will be in the year one thousand eight hundred and five.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That every owner or possessor of meadow ground on said island, shall, at his own proper cost and expense, keep the banks opposite to his, or her ground, at all times clear of brambles or other nuisances, so considered by the managers; and in default thereof, the said managers, or a majority of them, shall cause such parts so neglected, to be cleared, and after paying the expenses thereof, out of the general fund, may, and shall recover the same from such owner or possessor, in like manner as debts of the same amount are recoverable by the laws of this state, with costs of suit; and in case of such recovery being against any renter, of such part of said meadow, such renter may deduct the same out of his rent.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That so much of the act entitled "An act to enable the owners of Greenwich island, to embank and drain the same, to keep the outside banks and dams in good repair forever, and to raise a fund to defray sundry contingent and yearly expenses accruing thereon,"⁽¹⁾ as authorizes any division of the said island into districts for the purposes therein mentioned, or as requires the payment or deposit of any certain annual sum, per acre, by the owners in each district, be, and is hereby repealed; and all allotments, districts and divisions, heretofore made in pursuance of said act, are also hereby declared to be null and void, together with

all such parts of the said act, and no other, as are hereby altered and amended.

Approved January 30, 1804. Recorded in L. B. No. 9, p. 285.

Note (¹). Chapter 455; 6 Statutes at Large, p. 33.

Note (²). Chapter 2095; 16 Statutes at Large, p. 375.

CHAPTER MMCDXVI.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT T^O PROVIDE FOR THE ERECTION OF HOUSES FOR THE EMPLOYMENT AND SUPPORT OF THE POOR IN THE COUNTIES OF CHESTER AND LANCASTER." (¹).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the directors of the poor and of the house of employment for the counties of Chester and Lancaster respectively, or a majority of them, shall have like power and authority to bind out apprentices such poor children as may, from time to time, come under their care, as overseers of the poor, together with the consent of two or more justices of the peace, have, under the act entitled, "An act for the relief of the poor," passed the ninth day of April,⁽²⁾ one thousand seven hundred and seventy-one.⁽³⁾

Approved January 30, 1804. Recorded in L. B. No. 9, p. 15.

Note (¹). Chapter 1971; 16 Statutes at Large, p. 15.

Note (²). April should be March. See next note.

Note (³). Chapter 635. Passed March 9, 1771; 8 Statutes at Large, p. 75.

CHAPTER MMCDXVII.

AN ACT DISSOLVING THE MARRIAGE CONTRACT BETWEEN CORNELIUS BURK AND ELIZABETH, HIS WIFE.

Whereas Elizabeth Burk, of Washington county, hath represented to the legislature, that her husband Cornelius Burk, after wasting and spending her property, hath deserted and

left her, and hath now been absent more than five years and six months, and it is believed that the said Cornelius was married to another woman, who is yet living, previous to his marriage with the said Elizabeth; and that though the said Elizabeth might possibly obtain a divorce by application to, and attendance on the supreme court, yet that she is unable by reason of poverty to travel to Philadelphia, and attend the proceedings of said court, and pay the expenses incident thereto; and therefore, has prayed legislative aid, and it being just and reasonable that relief should be afforded in such cases: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority aforesaid, That the marriage of the said Cornelius Burk, and Elizabeth Burk, be, and the same is hereby annulled to all intents and purposes whatsoever, and they are hereby set free, and totally discharged from the said matrimonial contract, and from all duties and obligations arising therefrom, as fully, and absolutely as if they had never been joined in matrimony.

Approved January 30, 1804. Recorded in L. B. No. 9, p. 291.

CHAPTER MMCDXVIII.

AN ACT DECLARING LE BOEUF CREEK, IN THE COUNTY OF ERIE, FROM THE TOWN OF WATERFORD TO BROTHERTON'S MILLS, A PUBLIC HIGHWAY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Le Boenf creek, in the county of Erie, from the town of Waterford up to Brotherton's mills, be and the same is hereby declared a public highway, for the passage of rafts, boats, or other vessels, and it shall and may be lawful for the inhabitants and others, desirous of using the navigation of

said creek, to remove all the natural obstructions in the said creek: Provided, that any person or persons, owning or possessing land on said creek, shall have liberty to erect any dam, or dams, across the same, agreeably, and subject to all the restrictions, and provisions of an act of the general assembly of this commonwealth, passed the twenty-third day of March, one thousand eight hundred and three,⁽¹⁾ entitled "An act, to authorize any person or persons, owning lands adjoining navigable streams of water, declared public highways, to erect dams upon such streams for mills and other water works."

Approved January 30, 1804. Recorded in L. B. No. 9, p. 292.
Note (1). Chapter 2353; Supra this volume, p. 297.

CHAPTER MMCDXIX.

AN ACT TO INCOPORATE "THE UNION INSURANCE COMPANY OF PHILADELPHIA."

Whereas, an association of citizens hath heretofore been formed in the city of Philadelphia, under the title of "The Union Insurance Company of Philadelphia," for the purpose of making insurances upon maritime and other risks, and the object and operation of the said association meriting legislative encouragement and aid, inasmuch as they are calculated to promote the security and independence, as well as to alleviate the misfortunes and losses of commerce and navigation: Therefore to facilitate the transactions of the said association by the aid of an act of incorporation,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That all and every the persons who shall, at the time of the passing of this act, be members of the said association, called "The Union Insurance Company of Philadelphia," and proprietors of the capital stock thereof, shall be, and they are hereby created and declared to be one body politic and corporate, by the name, style and title of "The

Union Insurance Company of Philadelphia," and by the same name shall have perpetual succession, and shall be able to sue and be sued, implead and be impleaded, in all courts of record or elsewhere, and to purchase, receive, have, hold and enjoy, to them and their successors, lands, tenements and hereditaments, goods and chattels, of what nature, kind or quality soever, real, personal or mixed, or choses in action, and the same, from time to time, to sell, grant, demise, alien or dispose of: Provided, that the clear yearly income of the said real estate shall not, at any time, exceed the sum of ten thousand dollars; and also to make and have a common seal, and the same to break, alter and renew at pleasure; and also to ordain, establish and put in execution such by-laws, ordinances and regulations, as shall appear necessary and convenient for the government of the said corporation, not being contrary to the constitution thereof, or to the laws of the United States or of this commonwealth; and, generally, to do all and singular the matters and things which to them it shall lawfully appertain to do, for the well-being of the said corporation, and the due management and ordering of the affairs thereof.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That all the joint stock, and all other the estate, real, personal and mixed, and all the securities, dues, claims and demands, and all the records, books, papers, vouchers and other documents whatsoever, in anywise belonging to, or held and claimed by the said association of citizens, at the time of the passing of this act, shall be transferred to and vested in the said corporation of "The Union Insurance Company of Philadelphia," hereby created, as absolutely and completely, to all intents and purposes, as the same respectively shall then belong to or be held and claimed by the said association of citizens, or by their officers and agents, for their use; and also all the policies, contracts and other engagements, debts, obligations and assumptions whatsoever, of the said association of citizens, entered into, made, subsisting, due and payable, or to grow due and payable, at the time of the passing of this act, shall thenceforth become, and

be as obligatory and binding upon the said incorporation of "The Union Insurance Company of Philadelphia," hereby granted, to all intents and purposes, as if the same respectively had been entered into, made and contracted by the said company subsequent to the incorporation thereof: Provided always nevertheless, that nothing herein contained shall in anywise be construed to impair the obligation of any contract at any time entered into by the said association of citizens.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the following constitution shall be deemed the constitution of the corporation of "The Union Insurance Company of Philadelphia," hereby created; that is to say:

ARTICLE I.

OF THE CAPITAL STOCK AND FUNDS OF THE COMPANY.

1st. The capital stock of the Union Insurance Company of Philadelphia shall amount to five hundred thousand dollars; it shall be divided into five thousand shares of one hundred dollars each; to be held by the proprietors thereof at the passing of this act, and to be transferable by them and their assigns respectively, on the terms and in the manner hereinafter specified.

2d. The stockholders shall pay the balance payable for their respective shares at the periods and in proportions following, to wit: Twenty dollars on each share on or before the tenth day of July one thousand eight hundred and four; and the remainder due on each share shall be paid at such time and times, and in such proportion and proportions as the president and directors of the company shall declare and require, giving at least thirty days previous public notice.

3d. Any stockholder or stockholders, his, her or their executors, administrators or assigns, neglecting or refusing to pay all, or any part, of the sum or sums of money payable for his, her or their shares, in the proportions, and at the time and times prescribed as aforesaid, for the payment thereof, shall forfeit to the use of the company, all the money by him, her, or them previously paid, on account of the share or shares

in payment whereof such default shall be made as aforesaid, together with all right, title, interest, emolument, profit, claim and demand whatsoever, of, in, to and out of the capital stock and funds of the company, and the profits arising and to arise therefrom, by reason or on account of the share or shares so forfeited.

4th. The shares in the capital stock of the company shall be assignable and transferable, according to such rules as the directors shall make and establish.

5th. The capital stock and funds of the company shall, from time to time, be invested in the public securities of the United States, or of some one of them; or in the stock of any incorporated bank, or banks, established at Philadelphia; or in the stock of any other incorporated monied institution established and acting in Pennsylvania; or may be loaned to the state of Pennsylvania, in any sum, or sums, not exceeding fifty thousand dollars, with the approbation of a majority of the stockholders convened for that purpose; or may be loaned on the security of real estate within the city and county of Philadelphia.

6th. The public securities aforesaid, and all other evidences of debt or duty, owing and belonging to the said company, shall be transferred to, and taken in the name of "The Union Insurance Company of Philadelphia."

7th. The directors of the company, for the time being, shall have full power and authority, and they are hereby expressly empowered and authorized, from time to time, to sell, dispose of and transfer, and to cause to be sold, disposed of and transferred, all or any of the public, or other, securities, stocks, or evidences of debt or duty, in which the capital stock and funds of the company shall be invested as aforesaid, and the proceeds of any such sale, disposition and transfer, to reinvest in the same, or in any other of the aforesaid securities and stocks, according to the provisions and regulations aforesaid.

ARTICLE II.

OF THE ORGANIZATION OF THE COMPANY.

1st. The affairs of the company shall be managed and superintended by thirteen directors, to be chosen on the second

Monday in February, in each and every year; but the directors heretofore chosen by the association aforesaid, shall be the directors under this act until the second Monday in February, one thousand eight hundred and five; the directors shall be chosen by a plurality of the votes of the stockholders present in person or by proxy; but, in the former case, no stockholder shall vote unless the stock shall have stood in his or her name at least three months preceding the election; and, in the latter case, the proxy shall be derived directly from the stockholders owning the share or shares in their own right, for the term aforesaid for which it is given; and none but citizens of Pennsylvania, resident within the state, shall be entitled to vote as proxies; the votes of the stockholders for directors shall be given by ballot; no stockholder shall have more than twenty votes, and the votes shall be given, received and counted, according to the following ratio, to wit: A stockholder having four shares, or less, shall have one vote; having five shares, and not more than nine, shall have two votes; having ten shares, and not more than fourteen, shall have four votes; having fifteen shares, and not more than nineteen, shall have six votes; having twenty shares, and not more than twenty-four, shall have eight votes; having twenty-five shares, and not more than twenty-nine, shall have ten votes; having thirty shares, and not more than thirty-four, shall have twelve votes; having thirty-five shares, and not more than thirty-nine, shall have fourteen votes; having forty shares, and not more than forty-four, shall have sixteen votes; having forty-five shares, and not more than forty-nine, shall have eighteen votes; and having fifty shares and upwards, shall have twenty votes.

2d. There shall be a general meeting of the stockholders holden, at the office of the company, on the second Monday in February in every year; and a number of stockholders, who, together, shall be proprietors of at least one thousand shares, may at any other time call a general meeting of the stockholders, upon business interesting to the company, giving at least three weeks previous public notice in two newspapers printed in Philadelphia; the stockholders present, or by proxy, shall

decide upon all questions coming before any general meeting, by a plurality of votes, subject always to the regulations herein before specified, in the case of election of directors, as to votes given by proxies, and as to the ratio of voting according to the number of shares; the stockholders, at their general meetings, may make and ordain all necessary and lawful rules and regulations for governing and well-ordering the affairs of the company; they shall fix the compensation to be allowed to the president, or to any of the directors, and they may require, from the directors or any other officers of the company, any information that they shall deem useful and proper, together with the inspection of any books, papers and documents belonging to the company, with which requisition the directors and officers shall promptly comply.

3d. The directors, at the time of their election, shall be citizens of Pennsylvania, resident therein, and they shall serve for one year next ensuing their election, and until other directors shall be chosen, and no longer; each director, at the time of his election, and during his continuance as such, shall be the holder of at least ten shares in his own right; at the first meeting after their election, the directors shall choose one of their number as president, and in case of the death, resignation or inability of the president, or any director, the vacancy shall be supplied by the board of directors for the remainder of the period only, during which such president or director was elected to serve; the directors for the time being, (besides the other powers herein given) shall and may appoint such officers, clerks and servants as they may deem necessary and proper, for transacting the business of the company, allowing a reasonable compensation for the services of such officers, clerks and servants respectively; they shall and may also exercise such powers and perform all such duties, for the well-governing and ordering of the affairs of the said company, as the stockholders, at any general meeting, shall declare and prescribe; and they shall prepare and lay before the stockholders, at each and every general meeting, a full and true statement of the affairs of the company.

ARTICLE III. ·

OF THE OBJECTS AND CONTRACTS TO WHICH THE CAPITAL OF THE
COMPANY SHALL BE APPLIED.

1st. The president and directors shall have full power and authority, in the name and on behalf of the company, to make all kinds of marine insurance, all kinds of insurance upon the inland transportation of goods, wares and merchandise, all kinds of insurance against fire in town or country in this state, or in any other of the United States, and insurances upon a life or lives; and they may also lend money upon bottomry and respondentia, and generally do, transact and perform all matters and things relating to the said objects; subject always to the regulations and restrictions herein contained, and to such regulations and restrictions as the stockholders shall, from time to time, devise and prescribe.

ARTICLE IV.

OF THE PERMANENT RULES FOR TRANSACTING THE BUSINESS OF
THE COMPANY.

1st. The directors shall meet as a board, and shall also divide themselves into committees; each committee consisting of at least two directors; the committee shall attend, in weekly rotation, at the office of the company, and, together with the president, shall have full power and authority to transact the current business of the company; subject always to the provisions contained in these articles, to the rules and regulations made and established by the stockholders, and to the orders and instructions of the Board of Directors.

2d. The Board of Directors shall hold stated meetings, at least once in every fortnight, and occasional meetings whenever summoned by the president; the president shall preside at all meetings of the Board, and in case of his sickness or necessary absence, his place may be supplied by any other director, who shall be appointed by the Board of Directors; a quorum of the Board shall consist of five directors, the president being one, but, in his absence, the quorum shall consist of a majority of the whole number of directors; all questions before the Board shall be decided, *viva voce*, by a plurality of

votes of the directors present; and no vote shall be considered by a smaller number of directors than was present when the vote was originally taken.

3d. The directors shall on the first Monday in February, and on the first Monday in August, in each and every year, declare a dividend of so much of the profits of the company as to them shall appear advisable, and such dividend shall be paid to the respective stockholders, or to their respective agents duly empowered, in ten days after declaring the same; but the monies received as premiums on risks, which shall be undetermined at the time of declaring the dividends respectively, shall not be computed as part of the profits of the company.

4th. In case any loss shall at any time happen, by which the capital stock of the company shall be diminished, no dividend shall be made, until the amount of such diminution shall be replaced and added to the capital; and any president and every director consenting to declare, make and pay any dividend, until the diminution is so replaced, shall be accountable for and pay to the company, for their use, the amount of the dividend declared and paid in violation of the prohibition aforesaid.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That this act shall be and continue in force until the first day of January, which will be in the year of our Lord one thousand eight hundred and fifteen: Provided, that for the liquidation and settlement of all the past transactions and accounts of the said company, the corporate powers thereof shall be and continue effectual to all intents and purposes.

Approved February 6, 1804. Recorded in L. B. No. 9, p. 293.

CHAPTER MMCDXX.

AN ACT TO INCORPORATE THE PHOENIX INSURANCE COMPANY OF PHILADELPHIA.

Whereas an association of citizens hath heretofore been formed in the city of Philadelphia, under the title of "The Phoenix Insurance Company of Philadelphia," for the purpose of making insurance upon maritime and other risks; and the object and operation, of the said association, meriting the encouragement and aid of government, inasmuch, as they are calculated to promote the security and independence, as well as to alleviate the misfortunes and losses of commerce and navigation: Therefore, to facilitate the transactions of the said association, by the aid of an act of incorporation:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That all and every the persons, who shall at the time of the passing of this act, be members of the said association, called "The Phoenix Insurance Company of Philadelphia," and proprietors of the capital stock thereof, shall be, and they are hereby created and declared to be one body politic and corporate, by the name, style and title of "The Phoenix Insurance Company of Philadelphia," and by the same name, shall have perpetual succession, and shall be able to sue, and be sued, implead, and be impleaded, in all courts of record, or elsewhere; and to purchase, receive, have, hold and enjoy, to them, and their successors, lands, tenements and hereditaments, goods and chattels, of what nature, kind or quality soever, real, personal or mixed, or choses in action, and the same from time to time, to sell, grant, demise, alien or dispose of: Provided, that the clear yearly income, of the said real estate, to be held by the said corporation, shall not at any time, exceed ten thousand dollars; and also to make, and have a common seal, and the same to break, alter and renew at pleasure; and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall appear nec-

essary and convenient for the government of the said corporation, not being contrary to the said constitution, or to the laws of the United States, or of this commonwealth; and generally to do all and singular the matters and things, which to them it shall lawfully appertain to do, for the well-being of the said corporation, and the due management, and ordering of the affairs thereof.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That all the joint stock, and all other the estate, real, personal and mixed, and all the securities, dues, claims and demands, and all the records, books, papers, vouchers and other documents whatsoever, in anywise belonging to, or held and claimed by the said association of citizens, at the time of the passing of this act, shall be transferred to, and vested in the said corporation of "The Phoenix Insurance Company of Philadelphia," hereby created as absolutely and completely, to all intents and purposes, as the same respectively shall then belong to, or be held and claimed by the said association of citizens, or by their officers and agents, for their use; and also all the policies, contracts and other engagements, debts, obligations and assumptions whatsoever, of the said association of citizens, entered into, made, subsisting, due and payable, or to grow due and payable, at the time of the passing of this act, shall thenceforth become, and be as obligatory and binding upon the said incorporation of "The Phoenix Insurance Company of Philadelphia," hereby created, to all intents and purposes, as if the same respectively had been entered into, made and contracted by the said company, subsequent to the incorporation thereof: Provided always nevertheless, that nothing herein contained, shall in any wise be construed to impair the obligation of any contract at any time entered into by the said association of citizens.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the capital stock of "The Phoenix Insurance Company of Philadelphia," shall amount to six hundred thousand dollars; that the same shall be divided into six thousand shares, of one hundred dollars each, a moiety whereof shall consist of shares in the capital stock

of the company, incorporated by the name of "The President and directors of the Insurance Company of North America;" and that the capital stock of the company, by this act incorporated, shall be held by the proprietors thereof, at the passing of this act, and to be transferable, by them, and their assigns, respectively, on the terms, and in the manner herein-after specified; and the stockholders shall pay the balance, and transfer the shares of the said incorporated company, payable for their respective shares, in the company, by this act incorporated, in the following proportions, to wit: Ten dollars, and to transfer one share in the said incorporated insurance company, on, or before the first Monday in May next; ten dollars, and one other such share, on the second Monday of July next; ten dollars, and one other such share, on the first Monday in February, one thousand eight hundred and five; and any person or persons, copartnerships, or bodies politic, neglecting or refusing to pay any of the said instalments, or making any of the said transfers, for the space of ten days, after the same shall become due, shall respectively forfeit for the use of the company, as well all the monies previously paid, as the share or shares in the said incorporated company, previously transferred, as aforesaid, together with all right, title, interest, emolument, profit, claim and demand, of, in, to and out of the funds of the company, by this act incorporated; and the profits arising therefrom, by reason, or on account of such forfeited share, and so much of the capital stock and funds of the company, as it may not be necessary to reserve, for the purpose of paying demands against the company, shall be vested by the directors in the public debt of the United States, in bank stock, or in the stock of any company, incorporated by the state of Pennsylvania, or the United States, in bills of exchange, or bonds secured by mortgages, on sufficient real estates, within the city and county of Philadelphia; and the directors shall have power to call in, and re-invest such monies, in the same, or other funds, whenever it shall appear to them expedient; but a part of such capital stock, not exceeding the sum of sixty thousand dollars, may, with the approbation of a majority of the stockholders con-

vened for that purpose, be loaned to the state of Pennsylvania; the directors shall have power from time to time, to sell all, or any part of the stock of the said incorporated insurance company, which may be transferred, as aforesaid, and to invest the proceeds thereof, in manner hereinbefore directed.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the affairs of the company shall be managed by nine directors, who at their first meeting after each election, shall choose one of their number to be president, and another to be vice-president: Provided, they shall deem a vice-president proper and necessary. The directors shall be chosen by ballot, on the first Monday in January, in each year, after the year one thousand eight hundred and five, by a plurality of votes of the stockholders present or represented by proxy, and shall serve for one year next ensuing their election, and until others are chosen and no longer: Provided always nevertheless, that Isaac Wharton, David Lewis, Rumford Dawes, Robert E. Griffith, Joshua Gilpin, Joseph Snowden, Paul Beck, junior, Paschal Hollingsworth and Joseph Curven, shall be the present directors, and shall continue in office until the first Monday in January, one thousand eight hundred and five, and until others shall be chosen: And provided also, that no person shall be eligible, or qualified to act as a director, unless he owns, and shall continue to hold, at least, ten shares of the capital stock of this company: And provided also, that in case it shall at any time happen, that an election of directors shall not be made upon any day, when pursuant to this act it ought to have been made, the said corporation shall not for that cause, be deemed to be dissolved, but it shall be lawful, on any other day, within thirty days thereafter, to hold and make an election of directors, in such manner as shall have been regulated by the by-laws and ordinances of the said corporation; and that in case of the death, resignation or absence from the state, of a director, or in case any director shall be chosen a director of any other insurance company, and shall act as such, the place of such director, shall be filled up by the board of directors.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the directors for the time being, shall have power to appoint such officers, clerks and servants under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively, as shall be reasonable, and shall be capable of exercising such other powers and authorities, for the well-governing and ordering of the affairs of the said corporation, as shall be prescribed, fixed and determined, by the laws, regulations and ordinances of the same.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the president or vice-president shall have full power and authority, in the name and behalf of the company, to make all kinds of marine insurances; insurances against fire; insurances on lives, and insurances on the inland transportation of goods, wares and merchandise; and to lend money upon bottomry or respondentia; and generally to transact all business, necessarily relating to the objects aforesaid, subject to such regulations as the stockholders shall make, and conformably to the orders and instructions of the board of directors.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the following rules, restrictions, limitations and provisions, shall form, and be fundamental articles of the constitution of the said corporation, to wit:

1st. Stated meetings of the directors shall be held at least once a fortnight, and occasional meetings at such other times as the president or vice-president shall deem it expedient to convene them: At all such meetings, the president or vice-president shall preside, unless both are absent. in which case, any other director may be appointed by the board, to preside during the meeting: Three of the directors, the president or vice-president, being one, shall form a quorum of the board of directors; but in the absence of the president and vice-president, a majority of the whole number of directors shall be requisite to form a quorum; all questions of the board shall be decided by a plurality of the votes of the directors present;

but no vote or resolution shall be reconsidered, altered or rescinded, by a smaller number of directors than were present when such vote or resolution was passed: A committee consisting of at least two directors, shall attend in weekly rotation, at the office of the company, with whom it shall be the duty of the president and vice-president to advise, touching the affairs of the company.

2d. On the first Monday in June, and first Monday in December, in each year, the directors shall declare a dividend, on so much of the profits of the company, as to them shall appear advisable, which dividend shall be paid ten days after the same shall have been so declared; but monies received as premiums, or risks, undetermined or outstanding at the time of declaring such dividends, shall not be considered as part of the profits of the company; and in case the capital stock of the company shall be lessened by losses or casualties, no subsequent dividend shall be made, till a sum equal to such diminution shall have been added to the capital; if the directors shall knowingly make any dividend, or dividends, contrary to the true intent and meaning of this article, such of them as shall consent thereto, shall in their individual capacities, be accountable for, and pay to the company for their use, as much money, as they may so divide and pay, more than by this article they are authorized to do.

3d. A reasonable compensation shall be allowed by the directors, to the president and vice-president respectively, until the first Monday in January next; but the future annual compensation for those officers, to commence on that day, shall be fixed by the stockholders, at the general meeting to be held on the second Monday in December next; no director shall be entitled to any emolument, unless the same shall have been allowed at a general meeting of the stockholders.

4th. All policies of insurance, and other contracts made and entered into, in behalf of this company, shall be subscribed by the president as president, or by the vice-president as vice-president of "The Phoenix Insurance Company of Philadelphia." And all losses arising on any such policy, or policies,

shall be adjusted by the president or vice-president, and board of directors, and paid agreeably to the terms of the policy out of the funds of the company.

5th. Policies of insurance, and other contracts and engagements, may be made and entered into, on behalf of the company, in pursuance, and by virtue of this incorporation, as well with the members of this company individually, as with other persons and bodies, politic or corporate.

6th. The stock of the company shall be assignable and transferable, according to such rules as the board of directors shall establish; and no stockholder indebted to the company, shall be permitted to make a transfer, or receive a dividend, till such debt is paid, or secured to the satisfaction of the president or vice-president, and directors.

7th. A general meeting of the stockholders shall be held at the company's office, on the second Monday in December, in every year; at such meetings, the directors shall lay before the stockholders a full and complete statement of the affairs of the company, and all such further information, books, papers and other documents belonging to the company, as a majority of the stockholders so met, shall require; a number of stockholders, being together proprietors of not less than one thousand shares, shall have power, at any time, to call a general meeting of the stockholders; giving at least two weeks notice, in two of the newspapers printed in the city of Philadelphia, and specifying, in such notice, the objects of the meeting; at all such meetings, whether held at stated times, or specially convened, the stockholders shall have power to make rules, regulations and provisions, for the government of the affairs of the company: Provided, that no other subjects be taken into consideration, at any such special meeting, except those of which public notice shall have been given, in manner aforesaid.

8th. The stockholders in all questions coming before them, and at every election for directors, shall be entitled to one vote for every three shares by them respectively held; but no stockholder shall be entitled to more than fifteen votes in his own right; nor shall any stockholder vote at any election for

directors, unless the stock shall have stood in his own name on the books of the company at least three months preceding the time of such election: Stockholders may on all occasions give their votes by proxy, provided the proxy be derived immediately from such stockholder, the written evidence thereof, to be deposited with the directors, at the time of giving such vote, and the person holding the same be a citizen of the state of Pennsylvania.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That this act shall be, and continue in force until the first day of January, which will be in the year of our Lord one thousand eight hundred and fifteen: Provided always, that for the liquidation and settlement of all the past transactions and accounts of this company, the corporate powers thereof shall be, and continue effectual to all intents and purposes: And provided also, that nothing in this act shall be taken, or construed to affect the rights of any person, persons or bodies politic, before the passage of this act.

Approved February 6, 1804. Recorded in L. B. No. 9, p. 293.

CHAPTER MMCDXXI.

AN ACT TO CONTINUE IN FORCE FOR A LIMITED TIME, THE ACT ENTITLED "AN ACT, FOR INSTITUTING A BOARD OF PROPERTY, AND FOR OTHER PURPOSES THEREIN MENTIONED." (').

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the act, entitled "An act for instituting a Board of Property, and for other purposes therein mentioned,"⁽¹⁾ and every matter and thing therein contained, (the limitation clause only excepted) shall be and the same are hereby continued in force for seven years, from and after the passing of this act, and from thence to the end of the next session of the general assembly.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That in addition to the powers heretofore vested in the Board of Property, said board, or any member thereof, is hereby authorized to administer oaths, or affirmations to witnesses, and others, in all cases that may be necessary to the discharge of the duties of the board.

Approved February 6, 1804. Recorded in L. B. No. 9, p. 309.

Note (1). Chapter 1522; 14 Statutes at Large, p. 6.

CHAPTER MMCDXXII.

AN ACT TO RAISE BY WAY OF LOTTERY, A SUM NOT EXCEEDING EIGHT THOUSAND DOLLARS, FOR THE USE AND BENEFIT OF THE MINISTER, WARDENS AND VESTRY, OF THE AFRICAN EPISCOPAL CHURCH, OF ST. THOMAS, IN THE CITY OF PHILADELPHIA.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That John Inskeep, William Poyntell, Samuel Wheeler, John C. Stocker, Thomas Cumpston, Robert M'Mullen and William Richards be, and are hereby appointed commissioners, to raise by way of lottery, a sum of money, not exceeding eight thousand dollars, for the purpose of discharging the debts of the minister, wardens and vestry, of the African Episcopal Church, of St. Thomas, in the city of Philadelphia, and of enabling them to complete the building of their house of worship.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the commissioners before they proceed to sell any tickets, in the said lottery, shall lay such scheme thereof before the governor, as shall meet his approbation, and enter into bonds to him, for the due and faithful performance of their duty in selling the tickets, drawing the lottery, and paying the prizes; and each of them, before entering on the duties of his appointment, shall take and subscribe an oath, or affirmation, diligently, and faithfully to perform the duties hereby entrusted to him; and two of the said commissioners, at least, shall attend each day's drawing of the

aforesaid lottery, and when the whole is completed, shall cause an accurate list of the fortunate numbers to be published in two newspapers printed in the city of Philadelphia.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners be and they are hereby authorized, to settle and adjust all accounts which may be exhibited by any person, or persons, legally employed in carrying this act into effect, and that all expenses, necessarily attending the same, shall be paid by the aforesaid commissioners, out of the net proceeds of the said lottery.

Section IV. (Section IV, P.L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months, next after publication as aforesaid, shall be considered as relinquished for the benefit of said church.

Approved February 6, 1804. Recorded in L. B. No. 9, p. 309.

CHAPTER MMCDXXIII.

AN ACT APPOINTING A TRUSTEE IN THE COUNTY OF CENTRE.

Whereas by an act passed the thirteenth day of February, one thousand eight hundred,⁽¹⁾ Andrew Gregg was appointed a trustee, in, and for the county of Centre: And whereas, since that time, he has resigned, and the legislature has accepted his resignation, whereby that office is become vacant: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That James Potter, is hereby appointed a trustee, in, and for the county of Centre, and is hereby invested with like powers and authorities, in every respect whatsoever, that of right belongs to a trustee, appointed for the county of Centre, by any act heretofore enacted.

Approved February 6, 1804. Recorded in L. B. No. 9, p. 311.

Note (1). Chapter 2103. 16 Statutes at Large, p. 403.

CHAPTER MMCDXXIV.

AN ACT DECLARING WYOSOX CREEK, FROM THE MOUTH THEREOF, TO JACOB MYERS' MILL DAM, IN THE COUNTY OF LUZERNE, A PUBLIC STREAM OR HIGHWAY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Wyosox creek, in the town of Claverack, in the county of Luzerne, from the mouth of the same, to Jacob Myers' mill dam, is hereby declared a public stream or highway, for the passing of rafts, boats or other vessels; and it shall, and may be lawful for the inhabitants and others, desirous of using the navigation of said creek, to remove all natural obstructions in the same: Provided, that any person or persons, owning or possessing land on said creek, shall have liberty to erect any dam, or dams across the same, agreeably and subject to all the restrictions and provisions of an act of the general assembly of this commonwealth, passed the twenty-third day of March, one thousand eight hundred and three,⁽¹⁾ entitled "An act to authorize any person or persons, owning land adjoining navigable streams of water, declared public highways, to erect dams upon such streams for mills, and other waterworks."

Approved February 6, 1804. Recorded in L. B. No. 9, p. 311.

Note (*). Chapter 2353; Supra this volume p. 297.

CHAPTER MMCDXXV.

AN ACT TO PROVIDE FOR THE ERECTION OF A HOUSE FOR THE EMPLOYMENT AND SUPPORT OF THE POOR IN THE COUNTY OF YORK.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted

by the authority of the same, That a house for the employment and support of the poor shall be erected in the county of York, in the manner and under the conditions hereinafter prescribed and enacted.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the citizens of York county shall, at the next general election after the passing of this act, in the manner prescribed for the election of members of the house of representatives of this commonwealth, elect three reputable citizens of the said county to be directors of the poor and of the house of employment for the county of York; and the judges of election of the said county shall, immediately on receiving the returns from the several election districts, and casting up the number of votes therein, or within three days after, certify, under their hands and seals, the names of the directors so chosen, to the clerk of the court of quarter sessions of the said county, who shall file the said certificate in his office, and forthwith give notice in writing to the said directors, of their being elected; and the said directors shall meet at the courthouse in the borough of York, on the first Monday in November next ensuing their election, and divide themselves into three classes; the place of the first to be vacated at the expiration of the first year; of the second at the expiration of the second year, and of the third at the expiration of the third year; so that those who shall be chosen after the first election, and in the mode above prescribed, may serve for three years, and one-third be annually chosen.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That every director elected in manner aforesaid, shall, within ten days after his appointment, and before he enters upon the execution of his office, take an oath or affirmation, according to law, which any justice of the peace of the said county is hereby authorized to administer, that he will discharge the office of director of the poor truly, faithfully and impartially, to the best of his knowledge and ability; and in case of neglect or refusal to take the necessary oath or affirmation, for the faithful execution of said office, within the time aforesaid, he shall forfeit and pay the sum of

thirty dollars, for the use of the poor of the said county: Provided always, that no person shall be elected a director of the poor, for the said county, who is not a citizen of this state.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said directors respectively shall, forever hereafter, in name and in fact, be one body politic and corporate in law, to all intents and purposes whatsoever, relating to the poor of the said county of York, and shall have perpetual succession, and may sue and be sued, plead and be impleaded, by the name, style and title of "The directors of the poor and of the house of employment for the county of York;" and by that name shall and may respectively receive, take and hold any lands, tenements and hereditaments, not exceeding the yearly value of five thousand dollars, and any goods and chattels whatsoever, of the gift, alienation or bequest of any person or persons whomsoever; to purchase, take and hold any lands and tenements within the said county of York, in fee simple or otherwise, and erect suitable buildings thereon, for the reception, use and accommodation of the poor of their several townships; to provide all things necessary for the reception, lodging, maintenance and employment of the said poor; to appoint a treasurer annually, who shall give bond, with sufficient surety, for the faithful discharge of the duties of his office, and that at the expiration thereof, he will well and truly pay and deliver over to his successor, all monies, bonds, notes, books, accounts and other papers, to the said corporation belonging, which shall then be remaining in his hands, custody and possession; to employ, and at pleasure remove, a steward or stewards, matron or matrons, physician or physicians, surgeon or surgeons, and all other necessary attendants for the said poor respectively; to bind out as apprentices, to any art, mystery or occupation, so that such apprenticeship may expire, if males, at or before the age of twenty-one years, if females at or before the age of eighteen years, such poor children as shall come under their notice, or as may now be bound apprentices by the overseers of the poor; and to exercise and enjoy all such other powers now vested in the overseers of the poor as are not herein granted

or supplied; and the said directors respectively shall be empowered to use one common seal in all business relating to the said corporation, and the same, at their pleasure, to alter or renew.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said directors, as soon as may be after their election and organization as aforesaid, shall make an estimate of the probable expense of purchasing the lands, erecting the necessary buildings, furnishing the same, and maintaining the poor within the said county of York for one year; whereupon the commissioners of York county shall, and they are hereby authorized and required to increase the county tax by one-fourth part of the sum necessary for the purposes aforesaid; and shall procure on loan, on the credit of the taxes herein directed to be levied, the remaining three-fourths thereof, to be paid in instalments, with interest, out of the county taxes: Provided always, that if such loan cannot be made, the whole amount of the sum necessary for the purposes aforesaid, or such part thereof as may be deemed proper, shall immediately be added to the county tax; to be paid by the county treasurer to the directors aforesaid, on orders drawn in their favor by the county commissioners, as the same may be found necessary.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said directors shall, at least once in every year, render an account of all the monies by them received and expended to the auditors appointed to audit and settle the county accounts, subject to the same penalties, rules and regulations as are by law directed respecting the accounts of the county commissioners; and shall also, at least once in every year, lay before the court of quarter sessions and grand jury of York county, a list of the number, ages and sex of the persons maintained and employed in the said house of employment respectively, and of the children by them bound out to apprenticeships, to serve as aforesaid, with the names of their masters and mistresses, and their trade, occupation or calling; and shall, at all times when required, submit to the inspection and free examination of such

visitors as shall, from time to time, be appointed by the said court of quarter sessions, all their books, accounts, affairs, and economy, together with the rents, interests and monies payable and receivable by the said corporation, and also an account of all sales, purchases, donations, devises and bequests as shall have been made by or to them.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That Martin Gartner, Samuel Collins, Abraham Graffius, Christian Hetrick, Peter Small, Peter Storm, John Heneisen, Henry Griger and Daniel Spangler, of the county of York, be, and they are hereby authorized, empowered and directed, to receive and hear such applications, as shall be directed to them, respecting the place which may be deemed most proper for erecting the buildings for the employment and support of the poor as aforesaid, and shall, on or before the first day of July next, determine upon and fix the place on which the building shall be erected, and shall certify their proceedings under their hands and seals, to the clerk of the quarter sessions of the county of York, to be filed in his office.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said buildings shall be erected, and all necessary accommodations provided therein, notices shall be sent, signed by any two of the said directors of the said county, to the overseers of the poor of the several townships and borough of York, requiring them forthwith to bring the poor of the said townships and borough to the said house of employment; which order the said overseers are hereby enjoined and required to comply with, otherwise to forfeit the costs of all future maintenance, except in cases when by sickness or other sufficient cause any poor person cannot be removed; in which case, the overseers shall represent the same to the nearest justice of the peace, who, being satisfied of the truth thereof, shall justify the same to the said directors, and at the same time issue an order, under his hand and seal, to the said overseers, directing them to maintain such poor until such time as he or she shall be in a situation to be removed; then to convey the said pauper and

deliver him or her to the steward or keeper of the said house of employment, together with said order; and the charge and expense of such temporary relief, and of such removal, shall be paid by the said directors, at a reasonable allowance.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the said directors shall, from time to time, receive, provide for and employ, according to the true intent and meaning of this act, all such poor and indigent persons as shall be entitled to relief, or shall have gained a legal settlement in the county of York, and shall be sent there by an order or warrant for that purpose, under the hands and seals of any two justices of the peace, directed to any constable of the said county, or to the overseers of the poor of the proper township in any other county in this commonwealth, and to the directors of the poor and house of employment of said county.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said directors, or a majority of them, shall be a quorum in all cases to do business, and shall have full power to make and ordain all such ordinances, rules and regulations as they shall think proper, convenient and necessary for the direction, government and support of the poor and house of employment aforesaid, and of the revenues thereunto belonging, and of all such persons as shall come under their care or cognizance: Provided, the same be not repugnant to this law, or any other of the laws of this state, or of the United States: And provided also, that the same shall not have any force or effect until they shall have been submitted to the court of common pleas for the county of York, and shall have received the approbation of the said court.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the same directors, or any two of them, shall and are hereby enjoined to meet at the said house of employment, at least once in every month, and visit the apartments, and see that the poor are comfortably supported, and hear all complaints; and redress or cause to be redressed, all grievances which may happen by the neglect

or misconduct of their servants or others, in their employ or otherwise.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said directors shall each of them receive, for their services, twenty dollars per annum, to defray the expense of their necessary attendance on the duties of their offices.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That in case of any vacancy by death, resignation or otherwise of any of the said directors, the court of quarter sessions of said county shall fill such vacancy by appointment of one or more citizens of said county to serve until the next general election, when another director shall be elected, to serve for the period which such director was to have served if no such vacancy had happened: Any person refusing or neglecting to take upon himself the office of director, when appointed by the court aforesaid, shall be liable to the same penalty as is provided by the third section of this act.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That all monies which shall be remaining in the hands of the overseers of the poor of the several townships of York county, at the same time when the first county poor tax shall be assessed, levied and collected, shall be paid over by the said overseers to the supervisors of the highways of their respective townships, to be by them applied towards the repairing of the roads therein.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That as soon as the poor of the county of York shall be removed to the house of employment for the said county, the office of overseers of the poor within the said county shall from thenceforth be abolished.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That for the services enjoined on the clerk of the court of quarter sessions and court of common pleas of York county, by this act, he shall be entitled to exhibit his accounts to the county commissioners, who shall examine, and, if they allow the same to be just, shall

draw on the county treasurer for the amount thereof as is usual in case of other accounts.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the commissioners of the county of York are hereby authorized and empowered, to pay to the persons who are appointed by this act to fix the places where the buildings for the accommodation of the poor in said county shall be erected, such sum of money as will be sufficient to reimburse them for their expenses, and also to pay to each of the directors of the poor of York county, such sum of money as, together with the annual sum allowed to them by this act, will be, in the opinion of the commissioners, a reasonable compensation for each of their services during the time they are carrying on and erecting the building aforesaid.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the powers conferred and duties imposed on the overseers of the poor, in and by "an act to empower the overseers and guardians of the poor of the several townships, within this commonwealth, to recover certain fines, penalties and forfeitures, and for other purposes,"⁽¹⁾ are hereby conferred and imposed on the supervisors of the highways in the said county of York, and that the justices of the peace and sheriff within the said county are hereby required and enjoined, to pay to the said supervisors, to be by them applied to the repair of the highways, the aforesaid fines, penalties and forfeitures, within the time and in the manner prescribed by the said act for the payment thereof in other counties, to the overseers of the poor; and to give notice of the receipt thereof to the said supervisors, within the time and in the manner aforesaid; and that for any neglect or refusal to perform any of the duties enjoined on them by the said act, the said justices of the peace and sheriff in the said county shall be subject to all fines, penalties and forfeitures, to which the justices of the peace and sheriffs in other counties are by the said act subject and liable.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That so much of the laws

of this commonwealth relating to the poor of York county as is by this act altered or supplied be and the same is hereby repealed.

Approved February 6, 1804. Recorded in L. B. No. 9, p. 312.
Note (1). Chapter 2398; Supra this volume, p. 498.

CHAPTER MMCDXXVI.

AN ACT TO REGULATE THE FISHERIES IN THE RIVER DELAWARE AND ITS BRANCHES, AND FOR OTHER PURPOSES.

Whereas experience hath fully shown, that the existing laws for regulating the fisheries, and preserving the young fish in the river Delaware and its branches, are ineffectual: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That no seine, or net, shall be cast, or drawn, or in anywise made use of, by any person, or persons whatsoever, in the river Delaware, or its branches, so far as the same is, or shall be hereafter declared a public highway, for the purpose of taking fish, from sun setting on Saturday evening, until sun rising on Monday morning next following; and that no more than one seine, or net, shall be drawn, or in anywise made use of, in any one pool or fishing place, by any person, or persons whosoever, in the aforesaid river, or its branches, from the station point, or northwest corner of the state of New Jersey, to the southern point of Newbold's island; nor more than two seines, or nets, from the said Newbold's island to the circular boundary of the state of Delaware, within any one term of twenty-four hours, to begin at sun rising and to continue until sun rising the next day following; and if any person, or persons whosoever, shall cast, draw, or make use of any seine, or net, in the said river, or its branches, or shall be aiding, or assisting therein, within the term, or terms aforesaid contrary to the true intent and meaning of this act; every person, or persons so offending, and being thereof legally convicted, before any justice of the peace, of

the county where the offense is committed, shall forfeit and pay the sum of fifty dollars, for each and every such offense, together with the costs of prosecution, to be paid to, and applied by the supervisor, or supervisors of the roads, in the township where the offense has been committed, for repairing the public roads in the same.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That if any person, or persons, shall cast, draw, or make use of any seine, or net, for the purpose of catching shad, in the river Delaware, within the limits of this state, below the falls of Trenton, after the twenty-fifth day of May, or between the said falls, and opposite the mouth of the river Lehigh, after the first day of June, or in any other part of the said river Delaware, or its branches, between the mouth of the river Lehigh, and the station point, or northwest corner of the state of New Jersey, after the fifth day of June, in each, and every year; every person or persons, so offending and being thereof legally convicted, before any justice of the peace, in, and for the county, where he, or they may be apprehended, shall forfeit and pay the sum of fifty dollars, for each, and every such offense, to be applied to the use aforesaid, and likewise to pay the costs of prosecution.

Section III. (Section III, P. L.) And in order to ascertain what shall be deemed and held to be a pool or fishing place, within the meaning of this act, Be it enacted by the authority aforesaid, That from the place, or places, where seines, or nets, have been usually thrown into the water, to the place or places, where they have been usually taken out or from the place or places, where they may be hereafter thrown into the water, to the place or places, where they may be taken out, shall be deemed, and held, and is hereby declared, to be a pool, or fishing place, within the meaning of this act.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That wherever any fishery is occupied upon the river Delaware, within the limits aforesaid, either the landholder, tenant in possession, or some respectable person, appointed by the fishing company, shall apply to

the prothonotary of the respective county, where such fishery may be, and give bond, with one or more sufficient sureties, in the sum of three hundred dollars, conditioning to be accountable to the supervisors of the roads, of the respective township, where such fishery may be, for all fines and penalties, that may occur on account of any transgressions of this act, that may, or shall be committed, at his, or their respective fishery; and shall moreover give unto the said prothonotary, a description in writing of their pool, or fishing-place, together with the name of the township, or place, in which it is situated; which the said prothonotary shall file, together with the bond, in his office, and give them a certificate, with a receipt for the same, on their paying him the sum of seventy-five cents; and if any person or persons, shall undertake, and fish contrary to the true intent and meaning of this act, without having previously entered security as aforesaid, or without the permission of the person that has entered security; he, or they, shall forfeit and pay the sum of one hundred dollars, for each and every such offense, together with costs, to be levied and recovered as other sums to the same amount, are recoverable by the laws of this state, to be paid, and applied for the use as aforesaid.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons, shall be found making use of any seine, or net, contrary to the true intent and meaning of this act, every such person, or persons, so offending, shall in addition to the penalty aforesaid, forfeit the seine or net, so made use of, which seine or net, shall by order of the justice of the peace, or justices of the courts of quarter sessions, before whom such person or persons, shall be convicted, be exposed to public sale, after giving five days previous notice thereof by advertisement; and the money arising therefrom, shall be paid and applied in the manner, and for the use aforesaid, the costs of such prosecution and sale being first deducted.

Section VI. (Section VI, P. L.) And whereas the existing laws, for preventing the erection of fish-dams, baskets, &c. have been found ineffectual: Therefore, Be it enacted by the

authority aforesaid, that if any person or persons whosoever, shall erect, build, set up, repair or maintain, or shall be aiding, assisting and abetting, in erecting, building, setting up, repairing or maintaining any weir, rack, basket, fishing-dam or pound, or shall make use of any swab, or bushnet, or shall fix, fasten or set, any gilling seine, anchor any engine, or make use of any device whatsoever, except fishing with sweeping-seines, hooks and lines, darts, hoop-nets and eel-boxes, for taking fish in the river Delaware, or its branches, which are, or may be hereafter declared public highways; every person, or persons so offending, contrary to the true intent and meaning of this act, and being legally convicted thereof, by the oath or affirmation of one or more credible witnesses, or by his, or their own confession before the justices of the court of quarter sessions, of the proper county, where such offender may be apprehended, shall forfeit and pay the sum of one hundred and forty dollars, together with costs of suit, to be applied as aforesaid.

Section VII. (Section VII, P. L.) And whereas, various wing-dams, and other obstructions, have been erected and set up, prejudicial to the navigation of said river: For remedy whereof, be it enacted by the authority aforesaid, That if any person or persons whosoever, shall erect, build, set up, repair, or maintain, or shall be aiding, or assisting in erecting, building, setting up, repairing or maintaining any wing-dam, or placing any other obstruction, injurious to the navigation of said river, or its branches as aforesaid, except such mill-dams as have been heretofore erected, in pursuance of any special act of the legislature; and being thereof legally convicted, before the court of quarter sessions, of the county where the offense has been committed, shall forfeit and pay the sum of one hundred dollars to be paid to, and applied for the use as aforesaid.

Section VIII. (Section VIII, P. L.) And for the more effectual detecting and punishing offenders against this act: Be it enacted by the authority aforesaid, that the constable of each respective township, borough or district, which shall

be bounded by, or adjoining to any part of the river Delaware, or its branches, as aforesaid, shall, and he is hereby strictly enjoined, and required diligently to enquire, and carefully to inspect, and view once every week from the first day of April, until the tenth day of June, in every year, such parts of the said river, or its branches, as shall be adjoining his respective township, borough or district; and having any knowledge, of any offenses against this act, he shall forthwith give information thereof, to some justice of the peace, who shall immediately issue forth his warrant, directing the constable to bring forthwith before him, such transgressor, or transgressors, and have them dealt with according to law; and if any of the aforesaid constables, shall neglect or refuse to perform the duties enjoined on him, or them by this act, he, or they so offending, and being thereof legally convicted, before any justice of the peace, or before the justices of the court of quarter sessions, of the proper county, where such delinquent may reside, shall forfeit and pay the sum of twenty-five dollars, to be levied, and recovered as other sums, to the same amount, are recoverable by the laws of this state, to be paid to, and applied for the use as aforesaid. And each of the constables, while performing the duties enjoined on them by this act, shall be allowed at the rate of one dollar per day, to be paid by the supervisor of their respective township, borough or district; each constable having an exact account of the number of days, he, or they have been employed, under the directions of this act, regularly attested before one of the justices of the peace, of their respective township.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the supervisors of the public highways of each township, borough or district, which shall be bounded by, or adjoining to any part of the said river, or its branches as aforesaid, shall every year, before they settle their accounts, enquire of the justices of the peace of their respective townships, to know whether they have any money in their hands, arising from such forfeitures as aforesaid; which money, if any there should be, they are hereby authorized to receive, with giving the magistrate a receipt, and their re-

spective township credit for the same; and if either of the supervisors, from his, or their own knowledge, or the information of any other person, shall have any knowledge of any transgressions against this act, which either of the aforesaid constables have either neglected or refused to prosecute, agreeably to the directions of this act, he, or they, are hereby strictly enjoined and required, under the penalty of twenty-five dollars, immediately to give information to one of the justices of the peace of their respective township, borough or district, which said justice is hereby enjoined, and required, forthwith to proceed against any such delinquent, agreeably to the directions of this act.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the constables of each respective township, borough or district, which shall be bounded by, or adjoining to the said river Delaware, or its branches, from the tide-water up to the station point, or northwest corner of the state of New Jersey, which have been, or may hereafter be declared a public highway, shall be, and they are hereby enjoined, and required under the penalty of fifty dollars, to view once, at least, in every fourteen days, from the first day of August, to the first day of December, in every year, such parts of the said river, and its branches, as shall be adjoining his, or their respective township, borough or district, or bounding on the same; and if on any such view, he, or they shall find any fish-dam, basket, pound or such like device for taking fish, within the said river, or its branches, he shall, thereupon give notice to the next justice of the peace, of the township, or county so adjoining, which justice is hereby enjoined and required, to issue forth his warrant to the supervisors of the highways of each, and every township, next adjacent to the fish-dam, basket, pound or other device as aforesaid, so erected, or in which they, or any of them, shall be erected, enjoining and requiring the said supervisors, respectively forthwith to remove, or cause to be removed, every such fish-dam, basket, pound or other device aforesaid; and for that purpose to summon so many of the inhabitants of the respective townships as may be necessary, to throw down, remove

and destroy, such fish-dam, basket, pound or other device aforesaid, giving them three days previous notice; and the said supervisors shall make return of their proceedings, to the next court of quarter sessions, of the county, in which the said fish-dam, basket, pound or other device, shall have been so destroyed; and if any such supervisor, or supervisors of the highways, to whom such warrant shall be directed, shall refuse, or neglect to discharge and perform the duty hereby enjoined, and required of him, or them, he, or they, so offending, and being thereof legally convicted, by a jury of the county, or by his, or their own confession, before the said court of quarter sessions, shall for every such offense, forfeit and pay to the overseers of the poor of the township, borough or district, where such offender, or offenders shall reside, the sum of one hundred dollars, for the use of the poor of said township, borough or district; and if any inhabitant so summoned, shall refuse, or neglect to attend in person, or to send another able person in his room, to assist in throwing down, removing and destroying such fish-dam, basket, pound or other device aforesaid, so erected, built or set up, in such manner as the said supervisor, or supervisors shall order and direct, he shall forfeit and pay the sum of four dollars, for every such offense, to the overseers of the poor of the township, borough or district, whose inhabitants are so summoned, for the use of the poor, of the same, to be recovered and levied as debts of like amount are by law recoverable: Provided always, that any person, or persons who shall be convicted under this act, before any justice of the peace, he, or they shall have a right to appeal to the court of quarter sessions, within ten days after such conviction, and be entitled to a trial by jury.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That all, and every of the offenses, which shall hereafter be committed against the true intent and meaning of this act, within the said river, or its branches as aforesaid, the justices of the court of quarter sessions, of the county, which shall so adjoin the part of the said river, or its branches, where the offence is committed, are hereby authorized, empowered and required, to hear, try and deter-

mine the same, by a jury of the county, in the same manner as other criminal offenses committed within their respective counties, are usually heard, tried and determined before them; and the constables of each respective township, borough or district, which shall so adjoin the said river Delaware, or its branches, as aforesaid, shall to the best of their knowledge, present on oath or affirmation, every such offense to the justices of the court of quarter sessions, of their respective counties, together with the name, or names of such offender, or offenders, that he, or they may be tried according to the directions of this act, which oath or affirmation, the said justices are hereby required, duly, and carefully to administer.

Section XII. (Section XII, P. L.) And whereas the river Delaware, is the division line between this commonwealth and the state of New Jersey, and without a mutual cooperation of both states, the evils complained of, can never be effectually removed: Therefore, be it enacted by the authority aforesaid, that so soon as the legislature of the state of New Jersey, shall have enacted a law containing provisions similar to those hereinbefore enacted, that then this act shall, and is hereby declared, to be in full force and effect.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That all laws, and parts of laws, heretofore passed, upon the same subject, so far as they relate to the river Delaware, or its branches, excepting the river Schuylkill, which is hereby exempted from the restrictions, and regulations of this act, which are altered or supplied by the provisions contained in this act, be, and the same are hereby repealed, so soon as this act shall go into operation.⁽¹⁾

Approved February 8, 1804. Recorded in L. B. No. 9, p. 320.

Note (1). See Chapter 465. 6 Statutes at Large, p. 93, and note p. 99; Chapter 1092; 11 Statutes at Large, p. 300; Chapter 1222, 12 Statutes at Large, p. 218.

CHAPTER MMCDXXVII.

AN ACT PROHIBITING THE COMMISSIONERS OF THE RESPECTIVE COUNTIES OF THIS COMMONWEALTH FROM SELLING FOR A LIMITED TIME, UNSEATED LANDS FOR TAXES.

Whereas by the act, entitled "An act, to raise and collect county rates and levies," passed April the eleventh, one thousand seven hundred and ninety-nine,⁽¹⁾ the commissioners of the respective counties, are authorized under certain provisions, to sell unseated lands for taxes: And whereas, such sales are likely to be detrimental to the interests of this commonwealth, inasmuch as considerable portions of land are liable to be sold by the commissioners aforesaid upon which the commonwealth have liens, and of which lands, it is not yet practicable to furnish the county commissioners with adequate descriptions, in order to enable them to make the necessary discriminations: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of the several counties of this commonwealth, respectively be, and they are hereby required, to suspend for the term of one year, from and after the passing of this act, the further sales of unseated lands for taxes within this commonwealth.

Approved February 8, 1804. Recorded in L. B. No. 9, p. 328.
Note (1). Chapter 2095; 16 Statutes at Large, p. 375.

CHAPTER MMCDXXVIII.

AN ACT FOR THE RELIEF OF ALEXANDER PATTERSON.

Whereas it appears that Alexander Patterson, of Easton, in Northampton county, in the Revolutionary War, performed as captain, very essential services to this commonwealth: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That four hundred dollars be, and the same is hereby granted to the aforesaid Alexander Patterson; and also an annuity of one hundred dollars, to be paid half yearly, during his life; the aforesaid sums, to be paid out of any unappropriated monies in the treasury of this commonwealth, on warrants drawn by the governor, as in other cases.

Approved February 10, 1804. Recorded in L. B. No. 9, p. 328.

CHAPTER MMCDXXIX.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD FROM ERIE TO WATERFORD.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That George Buhler, Callender Irvine, Judah Colt, Thomas Foster, Abraham Smith, Martin Strong, James Naylor, Wilson Smith, Charles Marten, John Couchrin, Roger Alden, David Mead, Thomas B. Kennedy, Joseph Hackney, Jabez Colt, John Wilkins, junior, Henry Bauldin, John M'Masters, Samuel Ewalt, William Gazzam, James Gibson, Paul Bustie, William Crammond, Andrew Petit and Michael Keppeler, be, and they are hereby appointed commissioners, to do and perform the several duties hereinafter mentioned; that is to say, they shall on, or before the first day of June next, procure five books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president, managers and company, of the Erie and Waterford turnpike road company, the sum of fifty dollars, for every share set opposite to our respective names, in such manner and proportions, and at such times, as shall be determined by the said president and managers, in

pursuance of an act, of the general assembly of this commonwealth, entitled "An act, to enable the governor of this commonwealth, to incorporate a company for making an artificial road from Erie to Waterford;" witness our hands, the day of _____, in the year of our Lord one thousand eight hundred and _____; and shall give notice in the public papers, printed at Pittsburgh, Washington and Greensburg, and in two of the public papers in Philadelphia; and also by at least three written or printed notices, set up at the most public places, in the towns of Erie, Waterford and Meadville, for one calendar month, at least, of the times and places in Philadelphia, Pittsburgh, Meadville, Waterford and Erie respectively, when and where the said books will be open to receive subscriptions of stock for the company, at which respective times and places, some two of the said commissioners shall attend, and shall permit and suffer all persons, who shall offer to subscribe in the said books, which shall be kept open for the purpose, at least six hours in every judicial day, for the space of three days, if three days shall be necessary; and on the first of the said days, any person of the age of twenty-one years, shall be at liberty to subscribe in his own, or any other name or names, by whom he shall be authorised, for one share, on the second day for one or two shares, on the third day for one, two or three shares, and on any succeeding day, whilst the said books shall remain open, for any number of shares in the said stock; and at the expiration of the said three first days, the said commissioners respectively, may adjourn to such times as they shall judge proper; and if upon ascertaining the number of shares subscribed, at the places aforesaid respectively, they shall not in the whole amount to five hundred, the said commissioners may receive subscriptions at any of the said places, until five hundred shares shall in the whole be subscribed; but if more than five hundred shares in the whole shall have been subscribed, before the expiration of the said three first days, one hundred and fifty of the shares, which shall have been subscribed at Philadelphia, one hundred of the shares which shall have been subscribed at Pittsburgh; fifty of the shares which shall have been subscribed at Meadville,

fifty of the shares which shall have been subscribed at Waterford, one hundred and fifty of the shares which shall have been subscribed at Erie, shall be retained, if so many shares shall have been subscribed at the places aforesaid respectively; and the whole number of shares shall be reduced to five hundred, by deducting from the subscribers of more shares than one, such proportion of the shares by them respectively subscribed, as will, with the least fraction, and leaving every person one or more shares, come nearest to the exact number of shares aforesaid: Provided always, that every person offering to subscribe in the said books, in his own name, or in the name of any other person, shall previously pay to the attending commissioners, six dollars for every share to be subscribed, out of which shall be defrayed the expense attending the taking such subscriptions, and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen, as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when sixty persons or more shall have subscribed for three hundred or more share of the said stock, the said commissioners respectively may, or when the whole number of shares aforesaid, shall be subscribed, they shall certify under their hands and seals, the names of the subscribers, and number of shares subscribed by, or apportioned to each subscriber, to the governor of this commonwealth; and thereupon it shall, and may be lawful for the governor, by letters patent under his hand and seal of the state, to create and erect the subscribers, and if the said subscription be not full at the time, then also those who shall after subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The president, managers and company of the Erie and Waterford turnpike road;" and by the said name, the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding the said capital stock, and the increase and profits thereof, and of enlarging the same

from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding, to them, and their successors and assigns, in fee simple, and for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them, in the prosecution of their works, and of suing, and being sued, and of doing all, and every other matter and thing, which a corporation, or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the seven persons first named in the said letters patent shall, as soon as conveniently may be, give thirty days notice in at least two of the public papers printed in Philadelphia and Pittsburgh, also by at least three written or printed notices set up at the most public places in the towns of Erie, Waterford, and Meadville, of the time and place by them appointed for the said subscribers to meet, in order to organize the said corporation; and to choose, by a majority of votes of the said subscribers, by ballots, to be delivered in person or by proxy, one president, eight managers, one treasurer, and such other officers as shall be deemed necessary to conduct the business of the said company until the first Monday in March then next, and until like officers shall be chosen; and may make such by-laws, rules, orders and regulations as do not contravene the constitution and laws of this commonwealth, and may be necessary for the well-governing the affairs of the said company: Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held not exceeding five shares.

Section IV. (Section IV, P.L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday of March in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such other officers, as aforesaid for the ensuing year in man-

ner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meeting they shall have full power and authority to make, alter or repeal, by a majority of votes in manner aforesaid, all such by-laws, rules, orders and regulations made as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, he paying six dollars on account of each share; which certificate shall be transferable at his pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer; subject however to all the payments due and to grow due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the corporation, and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places as shall be ordained by their by-laws; and when met, five members shall form a quorum, and who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers, as they shall deem necessary to carry on the intended works, and to fix their salaries and wages; to ascertain the times when and manner and proportions in which the stock-

holders shall pay the monies due on their respective shares; to draw orders on the treasurer for all monies necessary to pay the salaries or wages of persons by them employed, and for the materials provided; which orders shall be signed by the president, or, in his absence, by a majority of a quorum, and countersigned by their clerk; and generally to do all such other acts, matters and things as by this act and by the by-laws, rules, orders and regulations of the company they shall be authorized to do.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder, after thirty days notice in the public papers, printed in Pittsburgh and other places as aforesaid, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, shall neglect to pay such proportion or dividend, at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, or his assignee, shall, in addition to the dividend so called for, pay after the rate of three per centum per month, for every month's delay of such payment after the time first appointed for it to be made; and if the same and the said additional penalty shall remain unpaid for such space of time, as that the accumulated penalties shall become equal to the sums before paid in part and on account of such share, the same shall be forfeited to the said company, and may and shall be sold to any person or persons willing to purchase, for such price as can be obtained for the same.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, their superintendents, surveyors, engineers, artists and chain-bearers, to enter into and upon all and every the lands and inclosures in, through and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most suitable for the purpose, and the quarries and beds of stone and gravel, and other materials, in the vicinity, that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix such route

or track for the same, as in the best of their judgment and skill will combine shortness of distance with the most practicable ground, from the intersection of State and Twelfth streets of the town of Erie aforesaid to the intersection of High street of the town of Waterford aforesaid.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, by and with their superintendents, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, wains and other carriages, and beasts of draught and burden, to enter upon the lands in, over, contiguous and near to which the route and track of the said intended road shall pass, first giving notice of their intention to the owners thereof, or their representatives, and doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making amends for any damages that may be done to any improvement thereon; and also for the value of the materials, by appraisement, to be made in the manner hereinafter directed, and upon reasonable agreement, if they can agree; if they cannot agree, then upon an appraisement to be made, upon oath or affirmation, by three disinterested reputable freeholders, to be mutually chosen, whose award, or the award of any two of them, shall be final; and if either the said president and managers, or the said owners, shall, upon due notice, neglect or refuse to join in the choice, then it shall and may be lawful for any justice of the peace of the county, where the said damages may be done, not interested on either side, to appoint the said freeholders, and upon tender of the value so appraised as aforesaid, it shall and may be lawful for the said president and managers, or for any person or persons by his or their directions, to dig, cut, take and carry away any timber, stone, gravel, sand or earth there being most conveniently situated for making or repairing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That if the road shall be laid out and founded over and upon any land whereby the owner

thereof shall suffer damage, the person or persons sustaining such damage may make application to the court of the county in which such damage shall have been done, and thereupon the court shall appoint six fit and disinterested persons to view and adjudge the amount of the damage done, which, if approved of by the court, shall be paid by the company.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall cause a road to be laid out one hundred feet wide, and at least twenty feet thereof to be made an artificial road, bedded with wood, stone, gravel, or any other hard substance, well compacted together, and of sufficient depth to secure a solid foundation to the same, in such manner as to secure, as near as the materials will admit it, a firm and even surface, and so nearly level, in its progress, as that it shall in no place rise or fall more than will form an angle of four degrees with a horizontal line, and shall for ever hereafter maintain and keep the same in good and perfect order and repair, from the town of Erie to the town of Waterford aforesaid.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers and company shall have perfected the said road, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three skilful and judicious persons to view and examine the same, and report to him, in writing, whether the said road is executed in a masterly, workman-like manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers and company to erect and fix such and so many gates or turn-pikes, upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons traveling on the same with horses, cattle, carts and carriages.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the said company having perfected the said road, and the same being examined, approved and licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons, using the said road, the tolls and rates hereinafter mentioned, and to stop and detain any person riding, leading or driving any horses, cattle, hogs, sheep, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, from passing through the said gates or turnpikes, until they shall respectively have paid the same; that is to say, for the whole distance of the said road, the following sums of money, and so in proportion for any lesser distance, or for any greater or lesser number of sheep, hogs or cattle, to wit: For every score of sheep, twelve and a half cents; for every score of hogs, twelve and a half cents; for every score of cattle, fifty cents; for every horse and his rider, or led horse, twelve and a half cents; for every sulkey, chair or chaise, with one horse and two wheels, twenty-five cents; for every chariot, coach, phaeton or chaise, with two horses and four wheels, eighty cents; for either of the carriages last mentioned, with four horses, one hundred cents; for every other carriage of pleasure, under whatever name it may go, the like sums according to the number of wheels and horses drawing the same; for every stage-wagon, with two horses, eighty cents, and for every such wagon, with four horses, one hundred cents; for every sleigh, twelve and a half cents for each horse drawing the same; and for every sled, eight cents for each horse drawing the same; for every cart or wagon, the wheels of which do not exceed the breadth of four inches, twenty-five cents for each horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches, and not exceed seven inches, fifteen cents for each horse drawing the same; for every wagon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches shall roll

more than ten inches, twelve and one half cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than ten inches, and not exceed twelve inches, or being ten inches shall roll more than fifteen inches, eight cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than twelve inches, six cents for each horse drawing the same: Provided no turnpike-gate shall be erected within one mile of either of the said towns of Erie and Waterford; neither shall any toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or to or from any place of worship or burial.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That no wagon or other carriage with four wheels, the breadth of the wheels of which shall not be four inches, shall be drawn along the said road between the first day of December and the first day of May following, in any year or years, with a greater weight thereon than two and one-half tons, or with more than three tons during the residue of the year; that no such carriage, the breadth of the wheels of which shall not be seven inches, or being six inches or more shall not roll at least ten inches, shall be drawn along the said road between the said first days of December and May, with more than three and one-half tons, or with more than four tons during the residue of the year; that no such carriage, the breadth of the wheels of which shall not be ten inches or more, or being less shall not roll at least twelve inches, shall be drawn along the said road between the said first days of December and May, with more than five tons, or with more than five and an half tons during the residue of the year; that no cart or other carriage with two wheels, the breadth of the wheels of which shall not be four inches, shall be drawn along the said road with a greater weight thereon than one and an half tons, between the said first days of December and May, or with more than two tons during the residue of the year; that no such carriage, the wheels of which shall not be of the breadth of

seven inches, shall be drawn along the said road with more than two and an half tons between the first days of December and May, or with more than three tons during the residue of the year; that no such carriage, the wheels of which shall not be of the breadth of ten inches, shall be drawn along the said road between the said first days of December and May, with more than three and an half tons, or with more than four tons during the residue of the year; that no greater weight than seven tons shall be drawn along the said road in any carriage whatever, between the first days of December and May, nor more than eight tons during the residue of the year; that if any cart, wagon or carriage of burden whatsoever, shall be drawn along the said road with a greater weight than is hereby allowed the owner or owners of such carriage, shall forfeit and pay four times the customary toll to the use of the company: Provided always, that it shall and may be lawful for the said company, by their by-laws, to alter any or all of the regulations herein contained, respecting the burdens on carriages to be drawn over the said road, and to substitute other regulations if, upon experience, such alterations shall be found conducive to the public good: And provided also, that such regulations shall not lessen the burden of carriages above described.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That all such carriages as aforesaid, to be drawn by oxen in the whole, or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse, in charging all the aforesaid tolls; and every mule as equal to one horse.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of five days, and information thereof shall be given to any justice of the peace of the neighborhood, such justice shall issue a precept, to be directed to any constable, commanding him to summon three disinterested freeholders to meet at a certain time, in the said precept to be

mentioned, at the place in the said road which shall be complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, and the said justice shall, at such time and place, by the oaths or affirmations of the said freeholders, enquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made under the hands of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted, to be collected at such turnpikes and gates, for passing the interval of road between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put in good and perfect order and repair as aforesaid; and if the same shall not be so put into good and perfect order and repair, before the next general court of quarter sessions of the peace to be held for the county wherein the said defective part or parts of the said road shall be, the aforesaid justice shall certify, and send a copy of the inquisition aforesaid, to the justices of the said court; and the said justices shall thereupon cause process to issue, and bring in the body or bodies of the person or persons, entrusted by the company with the care and superintendence of such part of the said road as shall be found defective, and shall proceed upon such inquisition, in the same manner and form as upon indictments found by the grand inquest for the body of the county against supervisors of the highways, for neglect of their duty; and if the person or persons, entrusted by the said company as aforesaid, shall be convicted of the offence by the said inquisition charged, the said court shall give such judgment according to the nature and aggravation of the neglect, as according to right and justice would be proper in the case of supervisors of the highways neglecting their duties; and the fines and penalties so to be imposed shall

be recovered in the same manner as fines for misdemeanors are usually recovered in the said court, and shall be paid to the supervisors of the highways of the township wherein the offence was committed; to be applied to repairing such highways as the township or county is bound to maintain and repair at the public expence thereof.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That if any toll-gatherer on the said road shall demand and receive from any person or persons using the same any greater or higher toll than by this act is authorized, or shall receive toll for any part of the said road which may be declared to be out of order and repair until it shall be repaired, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offence, to the use of the poor of the proper township, to be recovered as debts of equal amount are or may be by law recoverable.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whomsoever, owning, riding in, or driving any sulkey, chair, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, or owning, riding, leading or driving any horse, mare, gelding, or driving any hogs, sheep or other cattle, shall therewith pass through any private gate or bars, or along or over any private passage way, or other ground near to, or adjoining any turnpike, or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company and evade the payment of the toll or duty for passing through any such gate or turnpike; or if any person or persons, with such intent, take off, or cause to be taken off, any horse, mare, gelding or other cattle, from any sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, or practise any other fraudulent means or device, with the intent that the payment of any such toll or duty may be evaded or lessened, all and every person and persons, in all or any of the ways or manners aforesaid offending, shall, for every such offence respectively, forfeit and pay to the president, managers and company of the Erie and Waterford turnpike road,

any sum not exceeding thirty dollars, to be sued for and recovered with costs of suit before any justice of the peace, in like manner, and subject to the same rules and regulations as debts of equal amount are or may be by law recoverable.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all monies received by them from the said commissioners, and from the subscribers to the said undertaking, on account of the several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of profits on the shares which may be forfeited as aforesaid, and also all monies by them expended in the prosecution of their said work; and shall once at least in every year submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expences of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expences shall be liquidated and ascertained; and if upon such liquidation, or whenever the capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work; and to receive and demand the monies subscribed for such shares, in like manner and under the like penalties as are hereinbefore provided for the recovery of the original subscriptions, or as shall be provided by their by-laws.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall also keep a just and true account of all and every the monies received by their several and respective collectors of tolls at the several and respective gates or turnpikes on the said road from the beginning to

the end thereof, and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the subscribers the said companies stock, and shall on the first Monday in March and September in every year publish the half-yearly dividend, to be made of the said clear profits among the stockholders, and of the time and place when and where the same will be paid, and cause the same to be paid accordingly.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the president and managers shall, at the end of three years next after the whole road shall be completed, lay before the general assembly of this commonwealth an abstract of their accounts, showing the whole amount of their capital expended in prosecution of the said work, and of the income and profits arising from the said toll for and during the said period, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of three years after the said road shall be completed from the beginning to the end thereof, it shall appear by such abstract, that the clear profits and income of the said company will bear a dividend of more than nine per centum per annum, then the said toll shall be so reduced as will bring the said dividend down to nine per centum per annum; and at the end of every ten years after the said road shall have been completed, the president and managers of the same shall lay before the general assembly of this commonwealth an abstract of their accounts for three preceding years, and if at the end of any such decennial period it shall appear from such abstract that the clear income and profits of the said company will bear a dividend of more than nine per centum per annum, then the said toll shall be so reduced as will bring the said dividend down to nine per centum per annum.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected at the intersection of every

public road falling into and leading out of the said turnpike road, with boards and index-hand pointing to the direction of such road, on both sides whereof shall be inscribed in legible characters the name of the town, village or place to which such road leads, and the distance thereof in computed miles.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the town of Erie aforesaid, and extending thence to the termination of the turnpike aforesaid, whereon shall be marked in plain legible characters the respective number of miles which each stone is distant from the said town of Erie, and at every gate or turnpike by them to be fixed on the said road, shall cause the distance from the town of Erie aforesaid, and the distance from the nearest gates or turnpikes in each direction to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates, or some other conspicuous place, for the information of travelers and others using the said road; and if any person shall wilfully destroy the said posts, boards, index-hands or mile-stones, or deface the same, or deface the directions made on the said gates, or other conspicuous places as aforesaid, such person being convicted thereof by the evidence of one or more credible witness or witnesses, before any disinterested justice of the peace of the county where any of the said posts, boards, index-hands, mile-stones, and directions on the said gates or other conspicuous places shall be destroyed or defaced, he shall be adjudged by the said justice to pay a fine not exceeding twenty dollars, to be recovered with costs as debts of equal amount are or may be by law recoverable; which fine, when recovered, shall be paid by the said justice to the treasurer of the said company for the use of the company.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using the said road shall, except when passing by a car-

riage of slower draught, keep their horses and carriages on the right hand side of said road in the passing direction, leaving the other side of said road free and clear for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars to any person who shall be obstructed in his passage, and will sue for the same, to be recovered with costs before any justice, in the same manner as debts of equal amount are or may be by law recoverable.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the company shall not proceed to carry on the said work within three years after the passing of this act, or shall not within seven years afterwards complete the said road, according to the true intent and meaning of this act, then in either of those cases, all and singular, the rights, liberties, privileges, and franchises hereby granted to the company, shall revert to this commonwealth.

Section XXVI. (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and twenty-five, think proper to take possession of the said road, or to declare the same to be free of toll, five persons shall be appointed by the legislature, and five by the president and managers of the said company, who, or any six or more of them, shall proceed to examine and estimate the value of the property which the said company hath therein, and certify the amount thereof to the governor of this commonwealth, who shall cause the same to be laid before the legislature at their next session, and whenever the amount so certified shall be by law paid to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein shall cease and determine.⁽¹⁾

CHAPTER MMCDXXX.

AN ACT DECLARING CLEARFIELD CREEK, IN THE COUNTY OF HUNTINGDON, AND SINEMAHONING CREEK, IN THE COUNTY OF LYCOMING, PUBLIC HIGHWAYS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Clearfield creek, in the county of Huntingdon, from the mouth to the forks thereof, at the great Elk Lick, and Sinemahoning creek, in the county of Lycoming, from the mouth to the forks thereof, at the place called the Driftwood, be, and the same are hereby declared public streams and highways, for the passage of boats, rafts and other vessels; and it shall be lawful for the inhabitants or others desirous of using the navigation of said streams, to remove all natural obstructions therefrom, subject nevertheless to the provisions of the act, entitled, "An act to authorize any person or persons owning lands adjoining navigable streams of water declared public highways, to erect dams upon such streams, for mills and other water-works;" passed the twenty-third day of March one thousand eight hundred and three.⁽¹⁾

Approved February 13, 1804. Recorded in L. B. No. 9, p. 346.
Note (1). Chapter 2353, *Supra* this volume p. 297.

CHAPTER MMCDXXXI.

AN ACT TO PROVIDE FOR THE ERECTION OF A HOUSE FOR THE EMPLOYMENT AND SUPPORT OF THE POOR IN THE COUNTY OF DELAWARE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That a house for the employ-

ment and support of the poor shall be erected in the county of Delaware, in the manner and under the conditions hereinafter prescribed and enacted.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the electors of the said county of Delaware shall, at the general election next ensuing the passing of this act, in the manner prescribed for the election of members of the house of representatives of this commonwealth, elect seven reputable citizens of the said county, whose duty it shall be, on or before the first day of May next after their election, to determine upon and fix the place on which the said building shall be erected, and shall certify their proceedings therein, under their hands and seals, to the clerk of the court of quarter sessions of the county of Delaware, to be filed in his office; and the said electors shall also elect three reputable citizens of the said county, in like manner, to be directors of the poor and of the house of employment for the county of Delaware, for the ensuing year; and the judges of election of the said county shall immediately on receiving the returns from the several election districts, and casting up the number of votes therein, or within three days thereafter, certify under their hands and seals the names of the persons so elected to fix on a proper site for the said building, and the names of the directors so chosen, to the clerk of the court of quarter sessions of the said county, who shall file the said certificate in his office, and forthwith give notice in writing to the said persons, and directors, of their being elected; and the said directors shall meet at the courthouse in the said county, on the first Monday in November next ensuing their election, and divide themselves by lot into three classes, the places of the first to be vacated at the expiration of the first year, of the second at the expiration of the second year, and of the third at the expiration of the third year; so that those who shall be chosen after the first election, and in the mode above prescribed, may serve for three years; and one third be chosen annually.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That every director elected in

manner aforesaid, or appointed as is directed by the twelfth section of this act, shall within ten days after he is notified of such election or appointment, and before he enters on the duties of the said office, take an oath or affirmation, which any justice of the peace of the said county is hereby authorized to administer, that he will discharge the office of director of the poor for the said county, truly, faithfully and impartially, to the best of his knowledge and ability; and in case of neglect or refusal to take the said oath or affirmation within the time aforesaid, he shall forfeit and pay the sum of ten dollars, for the use of the poor of the said county; which fine shall be recovered by the directors, for the time being, as debts of equal amount are or shall be by law recoverable.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said directors shall for ever hereafter, in name and in fact, be one body politic and corporate in law, to all intents and purposes whatsoever relating to the poor of the said county of Delaware; and shall have perpetual succession, and may sue and be sued, plead and be impleaded, by the name, style and title of "The directors of the poor and of the house of employment for the county of Delaware," and by that name shall and may receive, take and hold any lands, tenements and hereditaments, not exceeding the yearly value of five thousand dollars; and any goods and chattels whatsoever, of the gift, alienation or bequest of any person or persons whatsoever, to purchase, take and hold any lands and tenements within their county, in fee simple or otherwise, and erect suitable buildings thereon, for the reception, use and accommodation of the poor of their respective townships, to provide all things necessary for the reception, lodging, maintenance and employment of the said poor, to appoint a treasurer annually, who shall give bond with sufficient surety, for the faithful discharge of the duties of his office, and that at the expiration thereof he will, well and truly pay and deliver over to his successor, all monies, bonds, notes, books, accounts, and other papers, to the said corporation belonging, which shall then be remaining in his hands, custody and possession, to employ and at pleasure re-

move a steward or stewards, matron or matrons, physician, or physicians, surgeon or surgeons, and all other necessary attendants for the said poor respectively, to bind out as apprentices, so that such apprenticeship may expire, if males at or before the age of twenty-one years, if females at or before the age of eighteen years, such poor children as shall come under their notice, or as may now be bound apprentices by the overseers of the poor, and to exercise and enjoy all other powers now vested in the overseers of the poor, as are not herein granted or supplied; and the said directors shall be empowered to use one common seal in all business relating to the said corporation, and the same at their pleasure to alter or renew.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said directors, as soon as may be after their election and organization as aforesaid, shall make an estimate of the probable expence of purchasing the lands, erecting the necessary buildings, and furnishing the same, and maintaining the poor within the said county for one year; whereupon the county commissioners of the said county shall, and they are hereby authorized and required, to increase the county tax by one-fourth part of the sum necessary for the purposes aforesaid, and shall procure on loan on the credit of the taxes herein directed to be levied, the remaining three-fourths thereof to be repaid in installments with interest out of the county taxes: Provided always, that if such loan cannot be made, the whole amount of the sum necessary for the purposes aforesaid, or such part thereof as may be deemed proper, shall immediately be added to the county tax, to be paid by the county treasurer to the directors aforesaid, on orders drawn in their favor by the county commissioners, as the same may be found necessary.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said directors shall at least once in every year, render an account of all the monies by them received and expended, to the auditors appointed to audit and settle the county accounts, subject to the same penalties, rules and regulations as are by law directed re-

specting the accounts of the county commissioners; and shall also at least once in every year lay before the court of quarter sessions, and grand jury of the said county, a list of the number, ages and sexes of the persons maintained and employed in the said house of employment, or supported or assisted by them elsewhere, and of the children by them bound out to apprenticeship as aforesaid, with the names of the masters or mistresses, and their trade occupation or calling; and shall at all times when thereunto required, submit to the inspection and free examination of such visitors as shall from time to time be appointed by the court of quarter sessions of the said county, all their books and accounts, together with the rents, interests and monies payable and receivable by the said corporation, and also an account of sales, purchases, donations, devises and bequests, as shall have been made by or to them.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That as soon as the said buildings shall be erected, and all necessary accommodations provided therein, notices shall be sent, signed by any two of the directors, to the overseers of the poor of the several townships of the said county of Delaware, requiring them forthwith to bring the poor of their respective townships to the said house of employment, which order the said overseers are hereby enjoined and required to comply with, or otherwise to forfeit the cost of all future maintenance; except in cases when by sickness or other sufficient cause, any poor person cannot be removed, in which case the said overseers shall represent the same to the nearest justice of the peace, who, being satisfied of the truth thereof, shall certify the same to the said directors, and at the same time issue an order under his hand and seal to the said overseers, directing them to maintain such poor, until such time as he or she shall be in a situation to be removed, and then to convey the said pauper, and deliver him or her to the steward or keeper of the said house of employment, together with the said order; and the charge and expence of such temporary relief, and of

such removal, shall be paid by the said directors at a reasonable allowance.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the said directors shall, from time to time, receive, provide for and employ, according to the true intent and meaning of this act, all such poor and indigent persons as shall be entitled to relief, or shall have gained a legal settlement in the said county of Delaware, and shall be sent there by an order or warrant for that purpose, under the hands and seals of any two justices of the peace, directed to any constable of the said county of Delaware, or to the overseers of the proper township in any other county of this commonwealth, and to the said directors of the poor and of the house of employment of the said county of Delaware; and the said directors are hereby authorized, when they shall deem it proper and convenient so to do, to permit any poor person or persons to be maintained elsewhere.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the said directors, or any two of them, who shall be a quorum in all cases to do business, shall have full power to make and ordain all such ordinances, rules and regulations, as they shall think proper, convenient and necessary, for the direction, government and support of the poor and house of employment aforesaid, and of the revenues thereunto belonging, and of all such persons as shall come under their care or cognizance; Provided, the same be not repugnant to this law, or any other of the laws of this state or of the United States: And provided also, that the same shall not have any force or effect until they shall have been submitted to the court of common pleas for the time being of the said county of Delaware, and shall have received the approbation of the said court.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That a quorum of the said directors shall, and they are hereby enjoined and required to meet at the said house of employment at least once in every month, and visit the apartments, and see that the poor are comfortably supported, and hear all complaints, and redress

or cause to be redressed, all grievances which may happen by the neglect or misconduct of any person or persons in their employment or otherwise.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the said directors shall, each of them, receive for their services twenty dollars per annum, to defray the expences of their necessary attendance on the duties of their offices.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That in case of any vacancy by death, resignation, removal, neglect, refusal, or otherwise, of any of the said directors, the remaining directors shall fill such vacancy by appointment of a citizen of their said county, under the same penalty as is provided for in the third section of this act, to serve until the next general election, when another director shall be elected to serve for the period which such director was to have served if no such vacancy had happened.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That all the monies which shall be remaining in the hands of the overseers of the poor of the several townships of Delaware county, at the time when the first county poor tax shall be assessed, levied and collected, shall be paid over by the said overseers to the supervisors of the highways of their respective townships, to be by them applied towards the repairing of the roads therein.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That as soon as the poor of the county of Delaware shall be removed to the house of employment of the said county, the office of overseer of the poor within the said county shall from thenceforth be abolished.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That so much of the laws of the commonwealth relating to the poor of the county of Delaware, as is by this act altered or supplied, be and the same is hereby repealed.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the powers conferred and duties imposed on the overseers of the poor in and by "An act to empower the overseers and guardians of the poor of the several townships within this commonwealth to recover certain fines, penalties and forfeitures, and for other purposes,"⁽¹⁾ are hereby conferred and imposed on the supervisors of the highways in the said county of Delaware; and that the justices of the peace and sheriff within the said county, are hereby required and enjoined to pay to the said supervisors, to be by them applied to the repair of the highways, the aforesaid fines, penalties and forfeitures within the time, and in the manner prescribed by the said act for the payment thereof in other counties, to the overseers of the poor, and to give notice of the receipt thereof to the said supervisors, within the time and in the manner aforesaid; and that for any neglect or refusal to perform any of the duties enjoined on them by the said act, the said justices of the peace and sheriff in the said county, shall be subject to all the fines, penalties and forfeitures to which the justices of the peace and sheriffs in other counties are by the said act subject and liable.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the commissioners of the said county are hereby authorized and empowered to pay to the persons who are appointed by this act to fix the place where the buildings for the accommodation of the poor in said county shall be erected, such sums of money as will be sufficient to reimburse them for their expences, and also to pay to each of the said directors such sum of money as (together with the annual sum allowed them by this act) may be in the opinion of the commissioners a reasonable compensation for their services during the time they are employed in erecting the buildings aforesaid.

Approved February 13, 1804. Recorded in L. B. No. 9, p. 347.

Note (1). Chapter 2398; Supra, this volume, p. 498.

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CHAPTER MMCDXXXII.

AN ACT FOR THE RELIEF OF GEORGE STEVENSON.

Whereas it has been represented to the legislature, that George Stevenson, now an inhabitant of Washington county, entered into the service of the United States early in our Revolutionary War with Great Britain; that he was appointed to a lieutenancy in the army, and after several years service he was in the year one thousand seven hundred and seventy-nine made a prisoner at the town of West Liberty by the Indians, and severely wounded in the head with a tomahawk, taken to Detroit and delivered up to the British, and by them carried to Quebec, where he suffered a long and harsh imprisonment, until October one thousand seven hundred and eighty-two, when he was discharged on parol, and made his way through the wilderness to the United States, and thence to Philadelphia, after an absence of three years and four months, having experienced many severe trials and hardships, and sustained very considerable losses; that he has never received any redress or compensation from the state, and that he is now grown old, with a large family of children to support. And whereas the facts set forth by the said George Stevenson appear to be well authenticated by several certificates accompanying his petition and representation, and the justice and liberality of the state require that relief should be granted to so meritorious a citizen: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the proper officers shall place George Stevenson on the list of soldiers entitled to donation lands, and on his application, either in person or by his agent or attorney duly constituted, shall draw for and patent to him such donation lands as he would have been entitled to if he had served until the conclusion of the war.

CHAPTER MMCDXXXIII.

A SUPPLEMENT TO AN ACT FOR ESTABLISHING A NIGHTLY WATCH, PROVIDING LAMPS, AND SUPPORTING PUMPS FOR PUBLIC USE IN THE BOROUGH OF LANCASTER, IN THE COUNTY OF LANCASTER, PASSED THE FOURTH DAY OF APRIL, ONE THOUSAND SEVEN HUNDRED AND NINETY-TWO. (¹).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act it shall be the duty of the assessors and wardens of the borough of Lancaster, in laying taxes under the authority of the act⁽¹⁾ to which this is a supplement, to lay and apportion the same according to the best of their skill and judgment, as near to and in proportion with the last county rates and levies as may be; and so much of the third section of the act, to which this is a supplement, as requires the taking of an assessment for the purpose of laying such tax, be, and the same is hereby repealed.

Approved February 20, 1804. Recorded in L. B. No. 9, p. 356.

Note (¹). Chapter 1628; 14 Statutes at Large, p. 250.

CHAPTER MMCDXXXIV.

A SUPPLEMENT TO AN ACT, ENTITLED "AN ACT TO EMPOWER THE OVERSEERS AND GUARDIANS OF THE POOR OF THE SEVERAL TOWNSHIPS OF THE COMMONWEALTH TO RECOVER CERTAIN FINES, PENALTIES AND FORFEITURES, AND FOR OTHER PURPOSES," PASSED THE FOURTH DAY OF APRIL, ONE THOUSAND EIGHT HUNDRED AND THREE (¹).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all fines, penalties and forfeitures, paid into the hands of the overseers of the poor by

virtue of the act⁽¹⁾ to which this is a supplement, where there are no poor supported at the expence of the township, or where a surplus remains in the hands of the overseers of the poor after paying the expences that may arise in the execution of their office, then, in either case, it shall be the duty of the overseers of the poor, and they are hereby required, under the same penalty as provided in other cases, to pay over such sums as remain unexpended in their hands at the settlement of their accounts, to the supervisors of the highways, to be applied to the repair of the public roads in the respective townships, unless the township auditors shall judge it necessary that the whole or part thereof be retained as a fund for the use of the poor.

Approved February 20, 1804. Recorded in L. B. No. 9, p. 356.

Note (1). Chapter 2398, Supra this volume, p. 498.

CHAPTER MMCDXXXV.

AN ACT ALTERING THE PLACE OF HOLDING THE ELECTIONS IN SOUTHAMPTON TOWNSHIP, IN SOMERSET COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors of Southampton township, in Somerset county, shall hold their elections at the house now occupied by Michael Korn, in the township of Southampton aforesaid, any law to the contrary notwithstanding.

Approved February 20, 1804. Recorded in L. B. No. 9, p. 357.

CHAPTER MMCDXXXVI.

AN ACT FOR THE RELIEF OF JOHN GILCHRIST.

Whereas it appears that John Gilchrist, of the borough of Harrisburg, while in the service of this state in the late Revolutionary War, received a wound, by reason whereof he

is rendered unable to procure a maintenance by manual labor: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the aforesaid John Gilchrist be, and he is hereby allowed an annuity of sixty-four dollars, from the first day of January one thousand eight hundred and three, and to continue during his life, to be paid as follows, viz. what is now due immediately after the passing of this act, and in future half-yearly, on warrants drawn by the governor out of any unappropriated monies in the treasury of this commonwealth.

Approved February 20, 1804. Recorded in L. B. No. 9, p. 358.

CHAPTER MMCDXXXVII.

AN ACT TO EMPOWER THE HEIRS, EXECUTORS OR ADMINISTRATORS TO THE ESTATE OF JOHN HIRST, SENIOR, DECEASED, TO SELL AND CONVEY A CERTAIN LOT OR PIECE OF GROUND, WITH THE BUILDINGS THEREON ERECTED, IN THE CITY OF PHILADELPHIA.

Whereas the heirs of John Hirst, senior, deceased, have represented, by their petition to the legislature of the fourteenth day of December one thousand eight hundred and two, that their title to a certain lot or piece of ground, situated in the city of Philadelphia, is rendered defective by the loss of a certain deed of conveyance for the same, bearing date the first day of January in the year of our Lord one thousand seven hundred and sixty-two, from William Allen, Esquire, late chief justice of the province of Pennsylvania, unto William Fox of the said city, joiner, his heirs and assigns forever, in fee, rendering a certain annual rent, containing, in breadth, on the south side of Sassafras street, sixteen feet and eight inches, and in length or depth seventy-five feet six inches, bounded eastward by a lot now or late of Edward Evans, southward by Philip Fail's lot, and partly by Jacob Painter's lot, westward by Peter Miller's lot, and northward

by the said Sassafras street. And whereas it appears from the documents adduced, that the said lot or piece of ground was granted by the said William Allen as aforesaid, and by other proofs, was since purchased by John Hirst, senior, on the sixteenth day of August in the year of our Lord one thousand seven hundred and seventy-eight, for the consideration or sum of one thousand pounds, for which he obtained a deed in due form of law, from Regina Fox, relict, and Henry Justus Fox, executors of the last will and testament of William Fox, deceased, and agreeably thereto. And whereas it further appears, that the title-deed from the said William Allen for the said lot or piece of ground, was lost in the life time of John Hirst, senior: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the said lot or piece of ground, the counter-part deed of which is now on record in the recorder's office in the county of Philadelphia, in deed-book E. F. No. 11, page 36, shall be, and hereby is vested in the heirs, executors and administrators of John Hirst, senior, their heirs or assigns forever, and from and after the passing of this act they shall stand seized of the said premises with the appurtenances, in trust to, and for the only proper use and behoof of the said heirs, executors, administrators and assigns forever, as effectually in law and equity to all intents and purposes as if the said deed from William Allen, esquire, to William Fox, had not been lost; and that the said title-deed from Regina Fox and Henry Justus Fox, shall not, in any wise, be prejudiced or impeached in any court of law and equity, for or by reason of the loss of the said deed, or for want of producing the same, subject nevertheless to such rents or reservations, as are now charged on the said lot of ground.

CHAPTER MMCDXXXVIII.

AN ACT AUTHORIZING AND DIRECTING THE COMPTROLLER AND REGISTER GENERALS, TO ADJUST AND SETTLE A CERTIFICATE WITH JOHN EVANS, LAWFUL ADMINISTRATOR OF THE ESTATE OF THOMAS M'FARLANE, DECEASED, IN WHOSE NAME IT WAS ISSUED.

Whereas it has been represented to the legislature by John Evans, that he has lost a certificate, No. 162, for the sum of seventy pounds thirteen shillings and ten pence three farthings, issued to Thomas M'Farlane for the depreciation of his pay as a matross in the fourth regiment of artillery. And whereas it appears by a certificate from the comptroller general's office, that the said certificate has not been redeemed or exchanged: And whereas it further appears that the said John Evans is the lawful administrator of the said Thomas M'Farlane, deceased: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the comptroller and register generals be, and they are hereby authorized and directed to adjust and settle the principal and interest due on said certificate with the said John Evans, or his lawful attorney; and that the governor is hereby authorized and required to draw his warrant on the state treasurer in favor of said John Evans or his lawful attorney, for the amount of the sums so adjusted and settled, to be paid out of any unappropriated monies now in the treasury of this commonwealth.

Approved February 27, 1804. Recorded in L. B. No. 9, p. 360.

CHAPTER MMCDXXXIX.

AN ACT DECLARING MUSCHANON CREEK (A BOUNDARY LINE BETWEEN CENTRE AND HUNTINGDON COUNTIES) A PUBLIC HIGHWAY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Mushanon creek (a boundary line between the counties of Centre and Huntingdon) from the mouth thereof to the forks of the same, about five miles above the town of Philipsburg, is hereby declared a public highway for the passing of rafts, boats and other vessels; and it shall and may be lawful for the inhabitants and others desirous of using the navigation of said creek, to remove all natural obstructions in the same: Provided, that any person or persons, owning or possessing lands on said creek, shall have the liberty to erect any dam or dams across the same, agreeably and subject to all the restrictions and provisions of an act of the general assembly of this commonwealth, passed the twenty-third day of March one thousand eight hundred and three, entitled, "An act to authorize any person or persons owning lands adjoining navigable streams of water declared public highways, to erect dams upon such streams, for mills and other water-works."⁽¹⁾

Approved March 5, 1804. Recorded in L. B. No. 9, p. 361.
Note (1). Chapter 2353; Supra this volume, p. 297.

CHAPTER MMCDXL.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD FROM LANCASTER, THROUGH ELIZABETHTOWN, TO MIDDLETOWN.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That George Fry, William Crabb, James Hamilton, Elijah Green, Daniel Montgomery, junior, George Redseker, John Carolus, John Peden, Adam Reigart, junior, Samuel Humes, William Kirkpatrick, Christopher Myer, John Swar, Peter Gonter, Adam Weber, Jacob Dickert, Abraham Witmer, William Montgomery, John Gundaker, and William G. Latimer, be, and they are hereby appointed com-

missioners to do and perform the several duties herein after mentioned: that is to say, They shall, on or before the first day of June next, procure three books, and in each of them enter as follows: "We, whose names are hereunto subscribed do promise to pay to the president, managers and company of the Lancaster, Elizabethtown and Middletown turnpike road company the sum of one hundred dollars for every share set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the said president and managers, in pursuance of an act of the general assembly of this commonwealth, entitled "An act to enable the governor of this commonwealth to incorporate a company for making an artificial road from Lancaster through Elizabethtown to Middletown. Witness our hands the _____ day of _____ in the year of Lord one thousand eight hundred and four;" and shall give notice in two of the public papers in the city of Philadelphia, one whereof shall be in the German language, and in the public papers printed in Lancaster, and also in Harrisburg, for one calendar month at least, of the times and places in Lancaster, Elizabethtown and Middletown, respectively, when and where the said books will be opened to receive subscriptions for stock of the company, at which respective times and places some three of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, which shall be kept open for the purpose at least six hours in every juridical day, for the space of three days, if three days shall be necessary; and on the first of the said days any person of the age of twenty-one years shall be at liberty to subscribe in his own or any other name or names, by whom he shall be authorized, for one share; on the second day for one or two shares; on the third day for one, two or three shares, and on any succeeding day, whilst the said books shall remain open, for any number of shares in the said stock; and if at the expiration of the said three first days, the said book opened at Lancaster shall not have six hundred shares therein subscribed, and the said book opened at Elizabethtown shall not have four thousand shares

therein subscribed, and the said book opened at Middletown shall not have five hundred shares therein subscribed, the said commissioners respectively may adjourn from time to time until the said numbers of shares shall be subscribed, of which adjournments public notice shall be given in the Lancaster and Harrisburg papers; and when the said subscriptions in the said books shall amount to the respective numbers aforesaid, the same shall respectively be closed: Provided always, That every person offering to subscribe in the said books in his own name, or any other name, shall previously pay to the attending commissioners ten dollars for every share to be subscribed, out of which shall be defrayed the expense attending the taking such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when sixty persons or more shall have subscribed for four hundred or more shares of the said stock, the said commissioners respectively may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals the names of the subscribers and number of shares subscribed by each to the governor of this commonwealth, and thereupon it shall and may be lawful for the governor, by letters patent under his hand and the seal of the state, to create and erect the subscribers, and if the subscription be not full at the time, then also those who shall after subscribe to the number of shares aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The president, managers and company of the Lancaster, Elizabethtown and Middletown turnpike road;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding said capital stock, and the increase and profits thereof, and of enlarging the same from time to time, by new subscriptions, in such manner and form

as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding, to them, their successors and assigns, in fee simple, or for any less estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them, in the prosecution of their works, and of suing, and being sued, and of doing all, and every other matter and thing, which a corporation, or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the seven persons first named in the said letters patent shall, as soon as conveniently may be after sealing the same give notice in the public papers printed at Lancaster, and also at Harrisburg, of a time and place by them to be appointed not less than twenty days from the time of issuing the first notice, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose, by a majority of votes of the said subscribers, by ballots, to be delivered in person or by proxy, duly authorized, one president, ten managers, one treasurer, and such other officers as they shall think necessary to conduct the business of the said company for one year, and until other such officers shall be chosen, and shall or may make such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for the well ordering the affairs of the said company: Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held not exceeding the said number: And provided also, that all future annual elections of the said corporation shall be held with such notice, and in manner and form aforesaid, alternately, at Lancaster, Elizabethtown and Middletown.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday of February in every year, for the purpose of choosing other such officers, as aforesaid for the then

ensuing year in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws, at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes in manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first to be chosen as aforesaid, shall procure certificates to be written or printed, for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him, her or them subscribed and held, they or either of them paying to the treasurer, in part of the sum due thereupon, the sum of ten dollars for each share; which certificate shall be transferable at his, her or their pleasure, in person or by attorney, in the presence of the president or treasurer; subject however to all payments due and to grow due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the corporation; and for every certificate by him, her or them held, shall be entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places, and be convened in such manner as shall be agreed on for transacting their business, at which meetings five members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book, and a quorum being met, they shall have full power and authority to agree with and appoint all such surveyors, engineers, superintendents and other artists and

officers as they shall judge necessary to carry on the intended works, and to fix their salaries or wages, to ascertain the times, manner and proportions when and in which the stockholders shall pay the monies due on their respective shares, in order to carry on the work, to draw orders on the treasurer for all monies necessary to pay the salaries of persons by them employed, and for the labor and materials done and provided, which orders shall be signed by the president, or in his absence by a majority of the quorum, and countersigned by their clerk, and generally to do and transact all such other acts, matters, and things, as by the by-laws, rules, orders and regulations of the company, shall be committed to them.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder, after thirty days notice in the public papers printed at Lancaster and Harrisburg as aforesaid, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, shall neglect to pay such proportion at the place appointed, for the space of sixty days after the time so appointed, every such stockholder or his assignee, shall, in addition to the dividend so called for, pay after the rate of five per centum per month for every delay of such payment; and if the same and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalties shall become equal to the sums before paid in part and on account of such share, the same shall be forfeited to the said company and may and shall be sold by them to any other person or persons willing to purchase for such price as can be obtained therefor.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, their superintendents, surveyors, engineers, artists and chain-bearers, to enter into and upon all and every the lands, tenements and inclosures, in, through, and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and

beds of stone and gravel, and other materials in the vicinity that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix such route or track for the same, as in the best of their judgment and skill will combine shortness of distance with the most practicable ground from the borough of Lancaster to Elizabethtown, and from thence to Middletown aforesaid through the main street, to John Croll's spring at the west end thereof.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said president and managers, by and with their superintendents, engineers, artists, workmen and laborers, with thier tools and instruments, carts, wagons, wains and other carriages, and beasts of draught or burden, to enter upon the lands, in, over, contiguous and near to which the route and track of the said intended road shall pass, first giving notice of their intention to the owner or owners thereof, or their representatives, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, by appraisement to be made in the manner hereinafter directed, and upon a reasonable agreement if they can agree, or if they cannot agree, then upon an appraisement to be made upon oath or affirmation by three disinterested freeholders, or any two of them agreeing, to be mutually chosen, or if the owners, upon due notice, shall neglect or refuse to join in the choice then to be appointed by any justice of the peace of the county not interested on either side, and on tender of the appraised value, to dig, take and carry away any stone, gravel, sand or earth being most conveniently situated for making or repairing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company shall erect permanent bridges over all waters crossing the said route or track between Lancaster and Middletown aforesaid, wherever the same may be found necessary, Swatara creek only excepted; and shall cause a road to

be laid out sixty feet wide, and at least twenty-one feet in breadth thereof, to be made an artificial road, bedded with wood, stone, gravel or any other hard substance, well compacted together, of a sufficient depth to secure a solid foundation to the same; and the said road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm, and as near as the materials will admit, an even surface rising towards the middle by a gradual arch, and so nearly level in its progress as that it shall in no place rise or fall more than will form an angle of four degrees with an horizontal line, and shall forever hereafter maintain and keep the same in good and perfect order and repair, from the borough of Lancaster through Elizabethtown to Middletown, agreeably to the route laid out by the said president and managers.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers and company, shall have perfected the said road from the borough of Lancaster, the distance of five miles, and so from time to time any distance not less than five miles progressively, they shall give notice thereof to the governor of this commonwealth, who shall thereupon forthwith nominate three skillful and judicious persons to view and examine the same, and to report to him whether the said road is so far executed, in a masterly and workmanlike manner, agreeably to the true intent and meaning of this act; and if the report shall be in the affirmative, then the governor shall, by license under his hand and the less seal of the commonwealth, permit and suffer the said president, managers and company, to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons traveling on the same with horses, cattle, carts and carriages.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said company having perfected the said road, or such part thereof, from time to time as aforesaid, and the same being examined, approved

and licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper to collect, and receive of and from all and every person or persons using the said road, the tolls and rates hereinafter mentioned, and to stop and detain any person riding, leading or driving any horse or horses, or driving any cattle, hogs, sheep, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage or burden or pleasure, from passing through the said gates or turnpikes until they shall respectively have paid the same; that is to say, For every space of ten miles in length of the said road, the following sums of money, and so for any greater or less distance, or for any greater or less number of hogs or cattle in proportion; to wit, For every score of sheep six cents; for every score of hogs twelve cents and an half; for every score of cattle twenty-five cents; for every horse and his rider, or led horse, six cents and a half; for every sulky, chair, or chaise, with one horse and two wheels twelve cents and an half; for every chariot, coach, stage-wagon, phaeton or chaise with two horses and four wheels twenty-five cents; for either of the carriages last mentioned with four horses thirty-seven cents and an half; for every other carriage of pleasure, under whatever name it may go, the like sums according to the number of wheels and horses drawing the same; for every cart or wagon, the wheels of which do not exceed the breadth of four inches, twelve cents and an half for each horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches, but do not exceed seven inches, six cents and an half for every horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than seven inches and not more than ten inches, or being of the breadth of seven inches shall roll more than ten inches, five cents for every horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches shall roll more than fifteen inches, three cents for every horse drawing the same; for every cart or wagon, the breadth of the wheels of which

shall be more than twelve inches, two cents for every horse drawing the same: Provided, That no turnpike gate shall be erected within one mile of any of the towns before mentioned, neither shall any toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or going to or returning from any place of worship, or attending any funeral, either on horseback or with carriages on days appointed for such purposes.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That no wagon or other carriage with four wheels, the breadth of the wheels of which shall not exceed four inches, shall be drawn along the said road between the first day of December and the first day of May following in any year, with a greater weight thereon than two and an half tons, or with more than three tons during the rest of the year; that no such carriage, the breadth of the wheels of which shall not be seven inches, or being six inches or more, shall not roll at least ten inches, shall be drawn along the said road between the first days of December and May, with more than three and an half tons, or with more than four tons during the rest of the year; that no such carriage, the breadth of the wheels of which shall not be ten inches or more, or being less, shall not roll at least twelve inches, shall be drawn along said road between the said first days of December and May, with more than five tons, or with more than five and an half tons during the rest of the year; that no cart or other carriage with two wheels, the breadth of the wheels of which shall not be four inches, shall be drawn along the said road with a greater weight thereon than one and an half tons, between the first days of December and May, or with more than two tons during the rest of the year; that no such carriage, the wheels of which shall not be the breadth of seven inches, shall be drawn along the said road with more than two and an half tons between the said first days of December and May, or with more than three tons during the rest of the year; that no such carriage, the wheels of which shall not be the breadth of ten inches, shall be drawn along the said road between the said first days of December and May, with more

than three tons or with more than three and a half tons, during the rest of the year; that no such carriage the wheels of which shall not be the breadth of ten inches, shall be drawn along the said road between the first days of December and May, with more than three and a half tons, or with more than four tons during the rest of the year; that no greater weight than seven tons shall be drawn along the said road in any one carriage whatever between the first days of December and May, nor more than eight tons during the rest of the year; and no cart, wagon or carriage of burden whatsoever, the wheels of which shall not be the breadth of nine inches at least, shall be drawn or pass in or over the said road or any part thereof with more than six horses, nor shall more than eight horses be attached to any carriage whatsoever used on the said road; and if any wagon or other carriage shall be drawn along the said road by a greater number of horses, or with a greater weight than is hereby permitted, the owner or owners of such carriage shall forfeit and pay four times the customary toll to the use of the company: Provided always, that it shall and may be lawful for the said company, by their by-laws, to alter any or all the regulations herein contained, respecting the burdens on carriages to be drawn over the said road, and to substitute other regulations if, upon experience, such alteration shall be found conducive to the public good: Provided always, that such regulations shall not lessen the burden of carriages above described.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That all such carriages as aforesaid, to be drawn by oxen in the whole, or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse, in charging all the aforesaid tolls; and every mule as equal to one horse.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of five days, and information thereof shall be given to any justice of the peace of the neighborhood, such justice shall issue a precept, to be directed to any constable,

commanding him to summon three disinterested judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall be complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, and the said justice shall at such time and place, by the oaths or affirmations of the said freeholders, enquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under the hands of himself and of a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair, according to the true intent and meaning of this act, he shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates, for passing the interval of roads between them shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair as aforesaid; and if the same shall not be so put into good and perfect order and repair before the next ensuing court of quarter sessions of the said county wherein the same shall be, the said justice shall certify and send a copy of the said inquisition to the judges of the said court, and the said court shall thereupon cause process to issue and bring the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be so found defective, and shall direct an indictment or indictments to be sent to the grand inquest, against the person or persons entrusted as aforesaid; and the said court shall, after conviction, give such judgment, according to the nature and aggravation of the neglect, as according to right and justice would be proper in the case of supervisors of the highways neglecting their duties; and the fines and penalties so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said courts, and shall be paid to

the supervisors of the highways of the place wherein the offense was committed, to be applied to the repairing such highways as the township or county is bound to maintain and repair at the public expense thereof.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if any toll-gatherer on the said road shall demand and receive any toll for any part of said road that is declared out of repair, until the same shall be put into repair, or shall demand and receive any other or greater tolls than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay twenty dollars for every such offense, one half to the use of the poor of the township or county, the other half to the use of the person or persons who shall sue for the same, to be recovered as debts of equal amount are or may be by law recoverable.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all the monies received by them from the said commissioners, and from the subscribers to the said undertaking, an account of the several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also of all monies by them expended in the prosecution of their said work, and shall once at least in every year submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the president, managers and company, at a stated or special meeting to be convened according to the provisions of this act or their own by-laws, to increase the number of shares to such extent as

shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner and under the like penalties as hereinbefore provided for the original subscriptions, or as shall be provided by their by-laws.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall also keep a just and true account of all and every the monies received by their several and respective collectors of tolls at the several gates or turn-pikes on the said road, from beginning to end, and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted among all the subscribers to the said company's stock, and shall on the first Monday in January and July in every year, publish the half-yearly dividends to be made of the said clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall, at the end of every third year from the date of the incorporation until two years after the whole road shall be completed, lay before the general assembly of this commonwealth an abstract of their accounts, showing the whole amount of their capital expended in the prosecution of the said work, and of the income and profits arising from the said tolls, for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear from the average profits thereof for the said two years, that the said clear income and profits will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall be lawful to and for the president, managers and com-

pany, to increase the tolls herein before allowed, in equal proportions upon each and every allowance thereof, so as to raise the dividends six per centum per annum; and at the end of every ten years after the said road shall be completed, they shall render to the general assembly a like abstract of their accounts for three preceding years; and if at the end of any such decennial period it shall appear from such abstract, that the clear profits and income of the said company will bear a dividend of more than nine per centum per annum, then the said tolls shall be so reduced as to reduce the said dividend to nine per centum per annum.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause a post to be erected at the intersection of every public road falling into and leading out of the said turnpike road, with a board and index hands pointing to the direction of such road, on both sides whereof shall be inscribed in legible characters the name of the town, village or place to which such road leads, and the distance thereof in computed miles.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the last milestone on the turnpike road from Philadelphia to Lancaster, and continued progressively to Middletown, on which shall be marked in legible characters, the distance to Philadelphia; and at every gate or turnpike to be fixed by them on said road, shall cause the distance from Philadelphia, and the distance from the nearest gates or turnpikes in each direction, to be marked in legible characters, designating the number of miles and fractions of a mile on the said gate or some other conspicuous place, and also to cause to be affixed at such places a printed list of the rates of toll, which from time to time may lawfully be demanded for the information of travelers and others using the said road.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That all wagoners and drivers of carriages of all kinds, whether of burden or pleas-

ure, using the said road, except when passing by a carriage of slower draft, shall keep their horses and carriages on the right hand side of the road, in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay the sum of two dollars to any person who shall be obstructed in his passage and will sue for the same, to be recovered with costs before any justice, in the same manner as debts of equal amount are or may be by law recoverable.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That if the said road shall be laid out and founded over and upon any land, whereby the owner or owners thereof shall suffer damage, the person or persons sustaining such damage may make application to the court of the county in which such damage shall have been done, and thereupon the court shall appoint six fit and disinterested persons to view and adjudge the amount of the damage so done, which, if approved of by the court shall be paid by the company.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the company shall not proceed to carry on the said work within three years after the passing of this act, or shall not within ten years afterwards complete the said road, according to the true intent and meaning of this act, then and in either of those cases, it shall and may be lawful for the legislature of the commonwealth to resume all and singular the rights, liberties, privileges and franchises hereby granted to the company.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and thirty, think proper to take possession of the said road, or to declare the same to be free of toll, five persons shall be appointed by the legislature, and five by the president and managers of the said company, who, or any six or more of them, shall proceed to examine and estimate the value of the property which the said company hath therein, and certify

the amount thereof to the governor of this commonwealth, who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be by law paid to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.⁽¹⁾

Approved March 5, 1804. Recorded in L. B. No. 9, p. 362.

Note (1). See Chapter 2808 (Act April 4, 1807, P. L. 123); 18 Statutes at Large, and Chapter 2942 (Act March 21, 1808, P. L. 85); 18 Statutes at Large.

CHAPTER MMCDXLI.

AN ACT FOR THE RELIEF OF GEORGE EICHHOLTZ.

Whereas it appears that George Eichholtz, of the borough of Lancaster, in the revolutionary war served as a private soldier in the Pennsylvania line, in Captain Dehuff's company, and colonel Atlee's regiment, and that in the battle of Flatbush, on Long Island, he received a severe wound in his groin with a musket ball, by reason whereof he is rendered wholly unable to procure maintenance for his family or himself: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That George Eichholtz, of the borough of Lancaster, be, and he is hereby allowed an annuity of sixty dollars, from the first day of January one thousand eight hundred and three, for and during his natural life, to be paid to him or his lawful attorney, in manner following, to wit: Sixty dollars for the first year, ending the first of January one thousand eight hundred and four, immediately after the passing of this act, and afterwards in half-yearly payments, from the said first day of January one thousand eight hundred and four, on warrants to be drawn by the governor, out of any unappropriated monies in the treasury of this commonwealth.

Approved March 5, 1804. Recorded in L. B. No. 9, p. 378.

CHAPTER MMCDXLII.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL TURNPIKE ROAD FROM THE INTERSECTION OF BRISTOL AND NEWTOWN ROADS, AT THE ROCK IN OXFORD, THROUGH BUSTLETON AND SMITHFIELD, IN THE COUNTY OF PHILADELPHIA, TO THE BUCK TAVERN, IN SOUTHAMPTON, IN THE COUNTY OF BUCKS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That Henry Wynkoop, Richard Leedom and Augustine Willot, of Bucks county, Jacob Sommers, of Moreland, Thomas Paul, William Duncan, Isaac Worrell, Joshua Comly, and Frederick Wolbert, of Philadelphia county, Clement Biddle, John Baker, north Second street, and Stephen Girard, of the city of Philadelphia, be, and they are hereby appointed commissioners, to do and perform the several duties hereinafter mentioned; that is to say, They shall, on or before the first day of May next ensuing, procure two books, and in each of them enter as follows: "We whose names are hereto subscribed, do promise to pay to the president, managers and company of the Bustleton and Smithfield turnpike road, the sum of one hundred dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportions as shall be determined by the said president and managers, in pursuance of an act of the general assembly of this commonwealth, entitled "An act to enable the governor of this commonwealth to incorporate a company for making an artificial or turnpike road from the intersection of Bristol and Newtown roads, at the rock in Oxford, through Bustleton and Smithfield, in the county of Bucks." Witness our hands, the day of in the year of our Lord one thousand eight hundred and four; and shall give notice in at least three of the public newspapers in the city of Philadelphia, one whereof shall be in the German language, for one month at least, of the times when, and the

places where, the said books will be open, to receive subscriptions of stock for the said company; at which times and places three of the said commissioners shall attend, and shall permit all persons who shall offer to subscribe in the said books, which shall be kept open for that purpose at least four hours in every juridical day, for the space of three days, if three days shall be necessary; and, if at the expiration of the said three first days, the said books shall not have six hundred shares therein subscribed, the said commissioners may adjourn from time to time, until the said number of shares shall be subscribed, of which adjournment public notice shall be given in at least two public papers; and when the said subscriptions shall amount to the number aforesaid, the said books shall be closed: Provided always, That every person offering to subscribe in the said books, in his own name or in the name of any other person, shall previously pay to the attending commissioners fifteen dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions and other incidental charges, and the remainder they shall deposit in the bank of Pennsylvania, for the use of such corporation, as soon as the same shall be organized, as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when forty persons or more shall have subscribed three hundred shares or more of the said stock, the said commissioners may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals, the names of the subscribers and the numbers of shares subscribed by each, to the governor of this commonwealth, whereupon he shall, by letters patent under his hand and the seal of the state, create and erect the subscribers, and if the said subscriptions be not full at the time, then also those who shall thereafter subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The president, managers and company of the Bustleton and Smithfield turnpike road;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and

franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfill the intent of this act, and of purchasing, taking and holding to them, their successors and assigns, in fee simple, and for any lesser estate, all such lands, tenements hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners herein before named shall, as soon as conveniently may be, give thirty days notice in three public newspapers in Philadelphia, one whereof shall be in the German language, of the time and place by them appointed for the said subscribers to meet, in order to organize the said corporation, and to choose by a majority of votes of the said subscribers, by ballots to be delivered in person or by proxy, duly authorized, one president, twelve managers, one treasurer, and such other officers as shall be deemed necessary, to conduct the business of the said company, until the first Monday in January next, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations, as do not contravene the constitution and laws of this commonwealth, and may be necessary for the well governing the affairs of the said company: **Provided** always, that no person shall have more than five votes at any election, **or in determining any question** arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday of November in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such other officers as aforesaid, for the ensuing year in man-

ner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations made as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed and held, he paying fifteen dollars for each share; which certificate shall be transferable at his pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for that purpose, shall be a member of the corporation; and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places as shall be ordained by their by-laws, and when met seven members shall form a quorum, who in the absence of the president may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book, and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers as they shall deem necessary, to carry on their intended works, and to fix their salaries and wages, to ascertain the times when, and manner and proportions in which the stockholders shall pay the monies due on their respective shares;

to draw orders on the bank of Pennsylvania for all monies necessary to pay the salaries or wages of persons by them employed, and for the materials: Provided, that such drafts do not exceed the sums deposited by the company; and such orders be signed by the president, or in his absence by a majority of a quorum, and countersigned by their treasurer, and generally to do all such other acts, matters and things, as by this act and by the by-laws, rules, orders and regulations of the company they shall be authorized to do.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if after thirty days notice in three of the public newspapers printed in the city of Philadelphia, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or dividend at the place appointed, for the space of thirty days after the time so appointed, every such stockholder or his assignee shall, in addition to the dividends so called for, pay at the rate of five per centum per month, for the delay of such payment; and if the same and additional penalty shall remain unpaid, for such space of time as that the accumulated penalty shall become equal to the sums before paid in part, and on account of such shares, the same shall be forfeited to the said company, and shall be sold to any person or persons willing to purchase, for such price as can be obtained for the same.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the said road shall be made, generally, in, over and upon the bed of the present road, beginning at the Frankford and Bristol turnpike road, at the rocks in Oxford township, where the same intersects the Bustleton road, and extending through Bustleton and Smithfield, in the county of Philadelphia, the nearest route that can be procured, to the Buck tavern, in Southampton township, in the county of Bucks: Provided always, that no surveyor, superintendent, artist or other person or persons employed by the said company to lay out the said road, shall enter upon or go through any land or lands belonging to any person or per-

sons, without first obtaining permission of the owner or owners thereof, excepting where it may be found necessary for the widening the said road.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall cause a road to be laid out, of not less than fifty, nor more than sixty-five feet in width, in such manner as that the present buildings on said road be not injured, and at least twenty-four feet thereof be made an artificial road, bedded with wood, stone, gravel, or any other hard substance, well compacted together, and of sufficient depth to secure a solid foundation to the same; and the said road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm, and as near as the materials will admit, of an even surface, and so nearly level in its progress, as that it shall, in no place, rise or fall more than will form an angle of four degrees with a horizontal line, and shall forever after maintain and keep the same in good and perfect order, from the intersection of the Bristol and Bustleton roads, at the rocks, in the township of Oxford, and county of Philadelphia, to the Buck tavern, in Southampton, in the county of Bucks; and the said president, managers and company, shall have power to erect permanent bridges over all the waters crossing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers and company, shall have perfected the said road, for the distance of five miles, beginning at the intersection of the Bristol and Bustleton roads, and also when they shall have completed the remaining part of the road, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three disinterested persons to view and examine the same, and report to him in writing, whether the said road is so far executed, in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report shall, in either case, be in the affirmative, then the governor shall, by license under his hand and the lesser seal of this common-

wealth, permit and suffer the said president, managers and company, to erect and fix so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons traveling on the same with horses, cattle, sheep, swine and carriages: Provided, that all persons attending funerals or places of worship, their horses and carriages, shall be exempt from the payment of tolls when going to and returning therefrom.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That when the said company is licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding, leading or driving any horses, asses or mules, or leading or driving any cattle, hogs, sheep, or driving any coach, coachee, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, from passing through the said turnpikes until they shall respectively have paid the same; that is to say, For every five miles in length of the said road, completed and licensed as aforesaid, the following sums of money, and so in proportion for any lesser distance, or for any greater or less number of sheep, hogs or cattle, to wit: For every score of hogs, six cents; for every score of sheep, six cents; for every score of cattle, twelve cents; for every horse and his rider or led horse, three cents; for every sulky, chair or chaise, with one horse and two wheels, six cents; and with two horses, twelve and an half cents; for every chariot, coach, phaeton, chaise, with four wheels and two horses, twenty cents; for either of the carriages last mentioned, with four horses twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums according to the number of wheels and the horses drawing the same; for every stage-wagon, with two horses, twelve cents; and for every such wagon, with four horses, twenty cents; for every sleigh, three cents, for each horse drawing the same; for every

sled, two cents for each horse drawing the same; for every cart or wagon, the breadth of whose wheels shall not exceed seven inches, three cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, shall roll more than ten inches, two cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceeding twelve inches, or being ten inches shall roll more than fifteen inches, one cent for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than twelve inches, one cent for every horse drawing the same; and if any person or persons shall represent to the said company or any of their officers, that he, she, or they, have traveled a less distance than he, she, or they have actually traveled along the said road with intent to defraud the said company of their toll, or any part thereof, such person or persons shall, for every such offense, forfeit and pay to the use of the said company, any sum not exceeding eight dollars; and if any toll-gatherer shall demand and receive toll for a greater distance than the person of whom such toll is demanded shall have traveled along the said turnpike, or for such part of said road which shall be declared out of repair, until it is repaired, or shall demand or receive greater or other toll from any person or persons than such toll-gatherer is authorized to demand and receive by virtue of this act, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offense, to the use of the poor of the township in which the forfeitures is incurred, and for the payment of which the said company shall be responsible.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That no wagon or other carriage with four wheels, the breadth of which wheels shall not be four inches, shall be drawn along the said road between the first day of November and the first day of May following in any year, with a greater weight thereon than two and an half tons, or with more than three tons the residue of the year; that

no such carriage, the breadth of whose wheels shall not be seven inches, or being six inches or more, shall not roll at least ten inches, shall be drawn along the said road between the first days of November and May, with more than three and an half tons, or with more than four tons during the residue of the year; that no such carriage, the breadth of whose wheels shall not be ten inches or more, or being less, shall not roll at least twelve inches, shall be drawn along the said road between the first days of November and May with more than five tons, or with more than five and an half tons during the remainder of the year; that no cart or other carriage with two wheels, the breadth of which shall not be four inches, shall be drawn along the said road with a greater weight thereon than one and a quarter tons, between the said first days of November and May, or with more than one and an half tons during the remainder of the year; that no such carriage, whose wheels shall not be the breadth of seven inches, shall be drawn along the said road with more than two and an half tons, between the said first days of November and May, or with more than three tons during the residue of the year; that no such carriage whose wheels shall not be of the breadth of ten inches shall be drawn along the said road between the first days of November and May, with more than three and an half tons, or with more than four tons during the residue of the year; that no greater weight than seven tons shall be drawn along the said road in any carriage whatever, between the said first days of November and May, nor more than eight tons during the residue of the year; that if any cart, wagon or other carriage of burden whatever, shall be drawn along the said road with a greater weight than is hereby allowed, the owner or owners of such carriage shall forfeit and pay four times the customary toll, to the use of the company: Provided always, that it shall and may be lawful for the said company, by their by-laws, to alter any or all the regulations herein contained, respecting the burdens on carriages to be drawn over the said road, and to substitute other regulations, if upon experience such regulations shall not be found conducive to the public

good: Provided always, that such regulations shall not lessen the burdens of carriages above described.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That all such carriages as aforesaid, which shall be drawn by oxen in the whole, or partly by horses, and partly by oxen, two oxen shall be estimated as equal to one horse, in charging all the aforesaid tolls, and every mule as equal to one horse.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of five days, and information shall be given thereof to any justice of the peace of the neighborhood within the county where the repair ought to be made, such justice shall issue a precept, to be directed to any constable, commanding him to summon three disinterested persons, to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall have been complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto within the said county, and the said justice shall, at such time and place, on the oaths or affirmations of the said persons, enquire whether the said road or any part thereof is in such good and perfect order and repair as aforesaid; and if upon such enquiry, the said road shall be found to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall cause an inquisition thereof to be made, under his own hand, and at least two of the said persons, one copy whereof he shall certify and send to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put in good and perfect order and repair as aforesaid; and if the same shall not be so put in good and perfect order and repair before the next court of quarter sessions of the peace, to be held for the county in which the defect is proved to be, the said justice shall certify and send a copy of the

inquisition aforesaid to the justices of the said court, who shall thereupon cause process to issue to bring in the body or bodies of the person or persons entrusted by the said company with the care and superintendence of such part of the said road as shall be so found defective, and shall proceed thereon as in the cases of the supervisors of the highways for neglect of their duty; and if he or they shall be convicted of the offense charged by the said inquisition the said court shall give such judgment, according to the nature and aggravation of the neglect, as they in their discretion shall judge proper: Provided, the fine in no instance shall be less than fifty dollars, nor exceeding one hundred dollars; and the fines so imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said county, and shall be paid to the supervisors of the highways of the township wherein the offense was committed, to be applied to repairing the highways and public roads therein.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whosoever, owning, riding in, or driving any sulky, chair or chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, riding or leading any horse, mare or gelding, or driving any sheep, hogs or other cattle, shall therewith pass through any private gates or bars or along or over any private passage, way or ground near to or adjoining any turnpike or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the said company, and avoid the payment of the toll or duty for passing through any such gate or turnpike; or if any person or persons shall, with such intent, take off or cause to be taken off, any horse, mare or gelding, or other cattle, from any sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, or practise any other fraudulent means or device, with intent that the payment of any such toll or duty may be evaded or lessened, all and every person or persons, in all or every, or any of the ways or manners aforesaid, offending, shall, for every such

offence, respectively, forfeit and pay to the president and managers and company of the Bustleton and Smithfield turnpike road, any sum not exceeding ten dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner and subject to the same rules and regulations as debts of a similar amount may be sued for and recovered: Provided always, that if any person or persons shall be thus prosecuted, and the said prosecution shall not be sustained on the part of the prosecutors, then and in such case the person or persons prosecuted as aforesaid, shall receive from the said company the sum of twenty dollars, in lieu of damages arising from delay and a vexatious prosecution; recoverable as other fines under this act.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all monies received by them from the said commissioners, from the subscribers to the said undertaking on account of the several subscriptions, of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also of all monies by them expended in the prosecution of their said work, and shall once at least in every year submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or when the capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the monies subscribed for such shares, in like manner and under like penalties as are

herein before provided for the original subscription, or shall be provided by their by-laws.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall also keep a just and true account of all the monies received by their several and respective collectors of tolls, at the several and respective gates or turnpikes on the said road, from the beginning to the end thereof, and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the subscribers to the said company's stock; and shall on the first Monday in November and May in every year, publish the half-yearly dividend made of the said clear profits among the stockholders, and the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall, at the end of every year from the date of the incorporation, until the whole road shall be completed, lay before the general assembly of this commonwealth an abstract of their accounts, showing the whole amount of capital expended in the prosecution of the said work, and of the income and profits arising from the said tolls, for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, that the clear annual income and profits thereof may be known and ascertained; and, if at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear, from the average profits at the end of the said two years that the said clear income and profits will not yield a dividend of six per cent. per annum on the whole capital stock of the said company so expended, then it shall and may be lawful for the said president, managers and company, to increase the tolls hereinbefore allowed, so much upon each and every allowance thereof as will raise the said dividend up to six per centum per annum; and, at the end

of every year after the said road shall be completed, they shall render to the general assembly a like abstract of their accounts; and if at any time the said clear income and profits thereof shall exceed a dividend of nine per cent. per annum, the surplus above that amount, when sufficient shall arise, shall be appropriated by the said president and managers, to the purchase of such share or shares of the said stock as the money arising from the said surplus will be found adequate to purchase, until all the said shares shall be so purchased; and the said subscribers shall determine by lot, from time to time, whose share or shares shall be paid off by the money arising as aforesaid; for which shares the said company shall pay the sums which were originally paid for each respective share, and when the whole number of shares shall be purchased, then the said road shall be free.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall cause posts to be erected and continued at the intersection of every public road falling into and leading out of the said turnpike road, with a board and index-hand pointing to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town, village or place, to which such road leads, and the distance thereof in measured or computed miles.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid that the said company shall cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the rocks aforesaid, and extending thence to the termination of the turnpike road aforesaid, whereon shall be marked, in plain legible characters, the respective number of miles each stone is distant from the rocks aforesaid, and at every gate or turnpike by them to be fixed on the said road, shall cause the distance from the said rocks, and the distance from the nearest gates or turnpikes in each direction, to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates, or some other conspicuous place, for the information of travelers and others using the said road; and if any

person shall wilfully destroy the said posts, boards, index-hands or milestones, or deface the same, or deface the directions made on the said gates or other conspicuous places as aforesaid, or shall, without permission of the acting superintendent of the said road, throw out upon the said road, or within the limits thereof, and suffer to remain, for the space of one day, any mould, dirt, shavings, weeds or rubbish of any kind, such person being convicted thereof by the evidence of one or more creditable and disinterested witness or witnesses, before any justice of the peace of that county in which the offense shall have been committed, he or she shall be adjudged by the said justice to pay a fine not exceeding three dollars, to be recovered with costs, as debts under five pounds are by law recoverable; which fine, when recovered, shall be paid by the said justice to the treasurer of the said company for the use of the said company.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars, to any person who shall be so obstructed in his passage and will sue for the same, to be recovered with costs before any justice, in the same manner as debts under forty shillings are by law recoverable.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall not proceed to carry on the said work within three years after the passing of this act, or shall not within seven years afterwards complete the said road, according to the true intent and meaning of this act, then, in either of those cases, all and singular the rights, privileges, liberties and franchises hereby granted to the said company, shall revert to this commonwealth.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and twenty-one, think proper to take possession of the said road, three persons shall be chosen by the governor of the commonwealth, and three by the president and managers of the said company, and three by the judges of the supreme court, who, or any six or more of them, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor, who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be paid, the right of the said company to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.⁽¹⁾

Approved March 5, 1804. Recorded in L. B. No. 9, p. 379.

Note (1). See Chapter 2639; (Act February 3, 1806, P. L. 318). 18 Statutes at Large. Chapter 2685; (Act March 17, 1806, P. L. 527). 18 Statutes at Large.

CHAPTER MMCDXLIII.

AN ACT APPOINTING THE PLACE WHEREUPON TO ERECT THE COURT-HOUSE AND PUBLIC OFFICES FOR THE COUNTY OF CRAWFORD.

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of the county of Crawford shall, as soon as convenient, erect the court house and public offices for said county, upon the piece of ground in the town of Meadville, known by the name of the Public Square.

Approved March 5, 1804. Recorded in L. B. No. 9, p. 394.

CHAPTER MMCDXLIV.

AN ACT TO ALTER THE PLACE OF HOLDING THE ELECTIONS IN THE SEVENTH ELECTION DISTRICT IN HUNTINGDON COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors of the seventh election district, in the county of Huntingdon, shall hold their elections at the house now occupied by Samuel Henry, in Barree township, any law, usage or custom to the contrary notwithstanding.

Approved March 5, 1804. Recorded in L. B. No. 9, p. 395.

CHAPTER MMCDXLV.

AN ACT AUTHORIZING THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD FROM THE WESTERN SIDE OF LAUREL HILL, NEAR UNIONTOWN, TO THE STATE LINE. IN A DIRECTION TOWARDS CUMBERLAND, IN THE STATE OF MARYLAND.

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Ephraim Douglass, Alexander McClean, Nathaniel Breadding, Isaac Meason, Jacob Beeson, Jacob Bowman, Samuel Jackson, James W. Nicholson, Joseph Torrence, Charles Porter, John Cunningham, Samuel Trevor, and John Gibson, of Fayette county, John Heaton, John Minor, Hugh Barclay, and John Badolet, of Greene county, Neal Gillespie, Zephania Bell, Thomas Acheson, James Kerr, and Joseph Penticost, of Washington county, and Thomas Spencer, Abraham Morrison, James Mitchell, and John McClean, of Somerset county, be, and they are hereby

appointed commissioners, to do and perform the several duties hereinafter mentioned; that is to say, they shall procure two books, and in each of them enter as follows: We, whose names are hereunto subscribed, do promise to pay to the president, manager and company of the Union and Cumberland turnpike road company, the sum of one hundred dollars for every share set opposite to our respective names, in such manner and proportions, and at such times, as shall be determined by the said president and managers, in pursuance of an act of the general assembly of this commonwealth, entitled "An act authorizing the governor of this commonwealth to incorporate a company, for making an artificial road from the western side of Laurel hill, near Uniontown, to the state line, in a direction towards Cumberland, in the state of Maryland." Witness our hands the day of in the year of our Lord one thousand eight hundred and ;" and shall give notice in the public papers printed at Uniontown, Washington, and Greensburg, and in the Maryland Herald, and in one of the public papers in Philadelphia, for one calender month at least, of the times and places when and where the said books will be open, to receive subscriptions of stock for the company; at which respective times and places some three of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, which shall be kept open for the purpose at least six hours in every juridical day, for the space of three days, if three days shall be necessary; and on the first of the said days any person of the age of twenty-one years shall be at liberty to subscribe in his own or any other name or names, by whom he shall be authorized, for one share; on the second day for one or two shares; on the third day for one, two or three shares, and on any succeeding day, whilst the said books shall remain open, for any number of shares in the said stock; and at the expiration of the said three first days, the said commissioners respectively may adjourn to such times as they shall judge proper; and, if upon ascertaining the number of shares subscribed at the places aforesaid, respectively, they

shall not in the whole amount to two hundred and fifty, the said commissioners may receive subscriptions at any of the said places, until two hundred and fifty shares shall in the whole be subscribed; and every person offering to subscribe in the said books in his own name, or in the name of any other person shall previously pay to the attending commissioners five dollars for every share to be subscribed, out of which shall be defrayed the expense attending the taking such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when sixty person or more shall have subscribed for three hundred or more shares of the said stock, the said commissioners respectively, may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals the names of the subscribers and number of shares subscribed by or apportioned to each subscriber, to the governor of this commonwealth, and thereupon it shall and may be lawful for the governor, by letters patent under his hand and seal of the state, to create and erect the subscribers; and if the said subscription be not full at the time, then also those who shall after subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The president, managers and company of the Union and Cumberland turnpike road;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary, to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, in fee simple, and for any lesser estate, all such lands, tenements, hereditaments and estate, real and

personal, as shall be necessary to them in the prosecution of their works, and of suing and of being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the seven persons first mentioned in the said letters patent, shall, as soon as conveniently may be, give thirty days notice in the public papers aforesaid, of the time and place by them appointed for the said subscribers to meet, in order to organize the said corporation, and to choose, by a majority of votes of the said subscribers, by ballots to be delivered in person or by proxy, one president, eight managers, one treasurer and such other officers as shall be deemed necessary, to conduct the business of the said company, until the first Monday in March then next ensuing, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations, as do not contravene the constitution and laws of this commonwealth, and as may be necessary for the well-governing the affairs of the said company: Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he or she may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet at such times and places in every year as shall be fixed by their by-laws, for the purpose of choosing such other officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meeting they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations, made as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers

first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him or her subscribed and held, he or she paying five dollars for each share, which certificate shall be transferable at his or her pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer, subject however to all the payments due and to grow due thereon; and the assignee, holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the corporation; and for every certificate assigned to him or her as aforesaid, shall be entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places as shall be ordained by their by-laws, and when met, five members shall form a quorum, and who in the absence of the president may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book, and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers as they shall deem necessary, to carry on the intended works, and to fix their salaries and wages, to ascertain the times when, and manner and proportions in which the stockholders shall pay the monies due on their respective shares, to draw orders on the treasurer for all monies, necessary to pay the salaries or wages of persons by them employed, and for the materials provided; which orders shall be signed by the president, or in his absence by a majority of a quorum, and countersigned by their clerk, and generally to do all such other acts, matters and things, as by this act and by the by-laws, rules, orders and regulations of the company they shall be authorized to do.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder, after thirty days notice in the public papers aforesaid, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, shall neglect to pay such proportion or dividend at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, or his assignee, shall, in addition to the dividend so called for, pay after the rate of three per centum per month for every month's delay of such payment after the time first appointed for it to be made; and if the same and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalties shall become equal to the sums before paid in part, and on account of such share, the same shall be forfeited to the said company, and may and shall be sold to any person or persons willing to purchase for such prices as can be obtained for the same.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, their superintendents, surveyors, engineers, artists and chain-bearers, to enter into and upon all and every the lands and inclosures in, through and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most suitable for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix such route or track for the same, as in the best of their judgment and skill will combine shortness of distance with the most practicable ground from Uniontown, in a direction towards Cumberland, in the state of Maryland, until it shall strike the division line between the two states.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, their superintendents, engineers, artists, workmen and laborers, with

their tools and instruments, carts, wagons, wains and other carriages, and beasts of draught and burden, to enter upon the lands, in, over, contiguous and near to which the route and track of the said intended road shall pass, first giving notice of their intention to the owners or their representatives, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, and also for the value of the materials by appraisement to be made, in the manner hereinafter directed, and upon reasonable agreement, if they can agree; if they cannot agree, then upon an appraisement to be made upon oath or affirmation, by three disinterested reputable freeholders, to be mutually chosen; and if either the said president and managers, or the said owners, shall, upon due notice, neglect or refuse to join in the choice, then it shall and may be lawful for any justice of the peace of the county where the said damage may be done, not interested on either side, to appoint the said freeholders; and upon tender of the value so appraised as aforesaid, it shall and may be lawful for the said president and managers, or for any person or persons by his or their directions, to dig, cut, take and carry away any timber, stone, gravel, sand or earth there being most conveniently situated for making or repairing the said road: Provided always, That the parties have the same right of appeal from the award of the said freeholders that parties now have from the decision of justices of the peace.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall have a right to cause a road to be laid out sixty feet wide, and at least twenty feet thereof to be made an artificial road, bedded with wood, stone, gravel or any other hard substance, well compacted together, and of sufficient depth to secure a solid foundation to the same, in such manner as to secure, as near as the materials will admit of it, a firm and even surface, rising towards the middle by a gradual arch, and so nearly level in its progress as that it shall, in no place, rise or fall more than will form an angle

of five and an half degrees with a horizontal line, and shall for ever hereafter maintain and keep the same in good and perfect order and repair, from the town of Union to the line aforesaid

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers and company, shall have perfected the road, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three skillful and judicious persons to view and examine the same, and report to him in writing, whether the said road is executed in a masterly, workmanlike manner, according to the true intent and meaning of this act, and if their report shall be in the affirmative, then the governor shall by license under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers and company, to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons traveling on the same with horses, cattle, carts, and carriages.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said company, having perfected the said road, and the same being examined, approved and licensed, in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop and detain any person riding, leading or driving any horses, cattle, hogs, sheep, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, from passing through the said gates or turnpikes, until they shall respectively have paid the same; that is to say, for every ten miles of the said road the following sums of money, and so in proportion for any lesser distance, or for any greater or lesser number of sheep, hogs, or cattle, to wit: For every score of sheep twelve cents; for every score of hogs twelve

cents; for every score of cattle twenty-five cents; for every horse and his rider, or led horse, six cents; for every sulky, chair or chaise, with one horse and two wheels, twelve and one half cents; for every chariot, coach, phaeton or chaise, with two horses and four wheels, thirty cents; for either of the carriages last mentioned, with four horses, forty cents; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and horses drawing the same; for every stage-wagon with two horses, thirty cents; and for every such wagon with four horses, forty cents; for every sleigh or sled, six cents for each horse drawing the same; for every cart or wagon, whose wheels do not exceed the breadth of four inches, six cents for each horse drawing the same; for every cart or wagon, whose wheels shall exceed in breadth four inches, and not exceed seven inches, six cents for each horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, shall roll more than ten inches, four cents for each horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceed twelve inches, or being ten inches shall roll more than fifteen inches, three cents for each horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than twelve inches, two cents for each horse drawing the same: Provided, that no toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or to and from any place of public worship, or from persons attending any funeral, in their going to or returning from any place of burial, on days appointed for those purposes.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That no wagon or other carriage with four wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road between the first day of December and the first day of May following in any year or years, with a greater weight thereon than two and one half tons, or with more than three tons during the

residue of the year; that no such carriage the breadth of whose wheels shall not be seven inches, or being six inches or more, shall not roll at least ten inches, shall be drawn along the said road between the said first days of December and May, with more than three and one half tons, or with more than four tons during the residue of the year; that no such carriage, the breadth of whose wheels shall not be ten inches, or more, or being less, shall not roll at least twelve inches, shall be drawn along the said road between the said first days of December and May, with more than five tons, or with more than five and an half tons during the residue of the year; that no cart or other carriage with two wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road with a greater weight thereon than one and a quarter tons, between the said first days of December and May, or with more than one and an half tons during the residue of the year; that no such carriage, whose wheels shall not be of the breadth of seven inches, shall be drawn along the said road with more than two and an half tons, between the first days of December and May, or with more than three tons during the residue of the year; that no such carriage, whose wheels shall not be of the breadth of ten inches, shall be drawn along the said road between the said first days of December and May, with more than three and an half tons, or with more than four tons during the residue of the year; that no greater weight than seven tons shall be drawn along the said road in any carriage whatever, between the said first days of December and May, nor more than eight tons during the residue of the year; and if any wagon or other carriage shall be drawn along the said road with a greater weight than is hereby allowed, the owner or owners of such carriage shall forfeit and pay four times the customary toll for the use of the company: Provided always, that it shall and may be lawful for the said company, by their by-laws, to alter any or all of the regulations herein contained respecting the burdens on carriages to be drawn over the said road, and to substitute other regulations, if upon experience such alterations shall be found conducive to the

public good: Provided always, that such regulations shall not lessen the burden of carriages above described.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That all such carriages as aforesaid, to be drawn by oxen in the whole, or partly by horses, and partly by oxen, two oxen shall be estimated as equal to one horse, in charging all the aforesaid tolls, and every mule as equal to one horse.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if the company shall neglect to keep the said road in good and perfect order and repair, for the space of five days, and information thereof shall be given to any justice of the peace of the neighborhood, such justice shall issue a precept, to be directed to any constable, commanding him to summon three disinterested freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall be complained of; of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall at such time and place, by oaths or affirmations of the said freeholders, enquire whether the said road or any part thereof is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under the hands of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition, to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes and gates, for passing the interval of road between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put in good and perfect order and repair as aforesaid; and if the same shall not be so put into good and perfect order and repair, before the next general court of quarter sessions of the peace to be held for the county wherein the said defective part or parts of

the said road shall be, the aforesaid justice shall certify and send a copy of the inquisition aforesaid to the justices of the said court, and the said justices shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be so found defective, and shall proceed upon such inquisition, in the same manner and form as upon indictments found by the grand inquest for the body of the county against supervisors of the highways for neglect of their duty; and if the person or persons entrusted by the said company as aforesaid, shall be convicted of the offense by the said inquisition charged, the said court shall give such judgment, according to the nature and aggravation of the neglect, as according to right and justice would be proper in the case of supervisors of the highways neglecting their duties; and the fines and penalties so to be imposed, shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said court; and shall be paid to the supervisors of the highways of the township wherein the offense was committed, to be applied to repairing such highways as the township or county is bound to maintain and repair at the public expense thereof.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if any toll-gatherer on the said road shall demand and receive from any person or persons using the same, any greater or higher toll than by this act is authorized, or shall receive toll for any part of said road which may be declared to be out of order and repair, until it shall be repaired, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offense, to the use of the poor of the proper township, to be recovered as debts of equal amount are or may be by law recoverable.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons, whosoever, owning, riding in, or driving any sulkey, chair, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, or owning, riding, leading or driving any horse, mare, gelding, hogs, sheep or other cattle, shall

therewith pass through any private gate or bars, or along or over any private passage way, or other ground near to or adjoining any turnpike or gate erected, or which shall be erected in pursuance of this act, with the intent to defraud the company and evade the payment of the toll or duty for passing through any such gate or turnpike; or if any person or persons, with such intent take off, or cause to be taken off, any horse, mare, gelding or other cattle, from any sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, or practise any other fraudulent means or device, with the intent that the payment of any such toll or duty may be evaded or lessened, all and every person and persons, in all or any of the ways or manners aforesaid offending, shall for every such offense respectively, forfeit and pay to the president, managers and company of the Union and Cumberland turnpike road, any sum not exceeding ten dollars, to be sued for and recovered with costs of suit before any justice of the peace in like manner and subject to the same rules and regulations as debts under twenty pounds may be sued for and recovered.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all the monies received by them from the said commissioners, and from the subscribers to the said undertaking, on account of the several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also all monies by them expended in the prosecution of their said work, and shall once at least in every year submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until the costs, charges and expenses of effecting the same shall be fully paid and discharged; and the aggregate amount of such expenses shall be liquidated and ascertained, and, if upon such liquidation, or whenever the capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road, according to the true

intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened according to the provisions of this act or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the monies subscribed for such shares, in like manner and under the like penalties as are hereinbefore provided for the original subscriptions, or as shall be provided by their by-laws.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall also keep a just and true account of all and every the monies received by their several and respective collectors of tolls, at the several and respective gates or turnpikes on the said road, from beginning to end, and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the subscribers to the said company's stock, and shall on the first Monday in March and September in every year, publish the half yearly dividend to be made of the said clear profits among the stockholders, and of the time and place when and where the same will be paid, and cause the same to be paid accordingly.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall, at the end of every third year from the date of the incorporation until two years next after the whole road shall be completed, lay before the general assembly of this commonwealth an abstract of their accounts, showing the whole amount of their capital expended in the prosecution of the said work, and of the income and profits arising from the said tolls, for and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known, and, if at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear from the average

profits thereof for the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall be lawful to and for the said president, managers and company, to increase the tolls herein above allowed, in equal proportions, upon each and every allowance thereof, so as to raise the dividends up to six per centum per annum; and at the end of every ten years after the said road shall be completed, they shall render to the general assembly a like abstract of their accounts for three preceding years; and if at the end of any such decennial period it shall appear, from such abstract, that the clear profits and income of the said company will bear a dividend of more than nine per centum per annum, then the said tolls shall be so reduced as to reduce the said dividend down to nine per centum per annum.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected at the intersection of every public road falling into and leading out of the said turnpike road, with boards and index-hands pointing to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town, village or place to which such road leads, and the distance thereof in computed miles.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause milestones to be placed on the side of the road, beginning at the distance of one mile from the town of Union aforesaid, and extending thence to the termination of the turnpike aforesaid, whereon shall be marked, in plain legible characters, the respective number of miles which each stone is distant from the said town of Union; and at every gate or turnpike by them to be fixed on the said road, shall cause the distance from the town of Union aforesaid, and the distance from the nearest gates or turnpikes in each direction, to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates, or some other conspicuous place, for the information of travellers and others using

the said road; and if any person shall wilfully destroy the said posts, boards, index-hands or milestones, or deface the same, or deface the directions made on the said gates or other conspicuous places as aforesaid, such person, being convicted thereof by the evidence of one or more credible witness or witnesses, before any disinterested justice of the peace of the county where any of the said posts, boards, index-hands, milestones and directions on the said gates or other conspicuous places shall be destroyed or defaced, he shall be adjudged by the said justice to pay a fine not exceeding ten dollars, to be recovered with costs as debts of equal amount are or may be by law recoverable; which fine, when recovered, shall be paid by the said justice to the treasurer of the said company, for the use of the company.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the road in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars, to any person who shall be obstructed in his passage and will sue for the same, to be recovered with costs before any justice, in the same manner as debts under forty shillings are by law recoverable.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the company shall not proceed to carry on the said work within six years after the passing of this act, or shall not within ten years afterwards complete the said road, according to the true intent and meaning of this act, then, in either of those cases, all and singular the rights, liberties, privileges and franchises hereby granted to the company, shall revert to this commonwealth.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred

and thirty, think proper to take possession of the said road, or to declare the same to be free of toll, five persons shall be appointed by the legislature, and five by the president and managers of the said company, who, or any six or more of them, shall proceed to examine and estimate the value of the property which the said company hath therein, and certify the amount thereof to the governor of this commonwealth, who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be by law paid to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.

Approved March 5, 1804. Recorded in L. B. No. 9, p. 395.

CHAPTER MMCDXLVI.

AN ACT DECLARING PART OF CONEDOGWINIT CREEK, IN THE COUNTY OF CUMBERLAND, A PUBLIC HIGHWAY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Conedogwinit creek, from the Cove fording to the Franklin county line, shall be, and the same is hereby declared to be a public highway, for the passage of boats and rafts along the same, and it shall and may be lawful for the inhabitants desirous of improving or using the navigation of the said creek, to remove all natural and artificial obstructions from below the Cove ford, on said creek, to the Franklin county line aforesaid: Provided in doing the same, they shall not thereby do any damage to private property.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That nothing in this act contained shall be deemed, taken or understood, to prevent any person or persons possessing land on said creek, who, before the passing of this act had authority under the law of this commonwealth to erect a dam or dams, from erecting the same, as

he, she or they may think proper: Provided, that such dam or dams be so constructed and kept in repair by the owners thereof, with complete slopes and locks on convenient parts of such dams, as that the navigation of said creek for boats and rafts will not be injured, nor the passing of fish prevented.

Approved March 5, 1804. Recorded in L. B. No. 9, p. 409.

CHAPTER MMCDXLVII.

AN ACT TO ALTER AN ACT, ENTITLED "AN ACT TO ERECT THE TOWN OF PITTSBURGH, IN THE COUNTY OF ALLEGHENY, INTO A BOROUGH, AND FOR OTHER PURPOSES THEREIN CONTAINED." (").

Whereas the inhabitants of the borough of Pittsburgh, in the county of Allegheny, have petitioned for an alteration in the law for incorporating said borough; stating, that on a fair experiment they have found the existing law insufficient to promote conveniency, good order and public utility: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the said town of Pittsburgh shall still continue and forever remain a borough, under the name and title of "The borough of Pittsburgh;" the extent and bounds of which shall be the same as in the original law, to wit: Beginning at the point or confluence of the rivers Allegheny and Monongahela, and running up the north-east branch of the said river Monongahela, south fifty-seven degrees, east thirty-nine perches, to Short street; thence south sixty-four degrees, east two hundred and seven perches, to Grant street; thence south seventy-four degrees, east forty-nine perches, to the mouth of Sooke's run; thence north thirty degrees, east one hundred and fifty perches, to a post in Andrew Watson's field; thence north nineteen degrees, west one hundred and fifty perches, to the river Allegheny; thence down the said river Allegheny, south seventy-one degrees, west three hundred and fifteen perches, to the place of beginning.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the freeholders, housekeepers and other inhabitants of said borough, who have resided within the same at least one year immediately preceding the election, and within that time paid a borough tax, shall have power on the third Saturday in March next, and on the same day in every year hereafter, to meet at the court house in said borough, and then and there, between the hours of twelve and six o'clock of the same day, elect by ballot one reputable citizen residing therein, who shall be styled "The burgess" of said borough, and thirteen reputable citizens, to be a town council, and shall also elect as aforesaid one reputable citizen, as high constable, all of whom shall be freeholders in said borough; but previous to said election the inhabitants shall elect three reputable citizens as judges, one as inspector, and two as clerks of the said election, which shall be regulated and conducted according to the general election law of this commonwealth; so far as relates to receiving and counting votes, and who shall be subject to the same penalties for malpractices, as by the said law is imposed; and the said judges, inspectors and clerks, before they enter upon the duties of their respective offices, shall take an oath or affirmation before any justice of the peace of said county, to perform the same with fidelity; and after said election shall be closed, shall declare the persons having the greatest number of votes to be duly elected; and in the case that any two or more candidates should have an equal number of votes, the preference shall be determined by lot, to be drawn by the three judges, whereupon duplicate certificates of said election shall be signed by the said judges, one of which shall be transmitted to each of the persons elected, and the other filed among the records of the corporation; and in case of the death, resignation, removal or refusal to accept of any of the said offices, the burgess, or in his absence or inability to act, the first named of the town council shall issue his precept, directed to the high constable, requiring him to hold an election in manner aforesaid, to supply such vacancy, giving at least ten days notice,

by advertisements set up at four of the most public places in the said borough.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the third Saturday in March next, the burgess and town council duly elected as aforesaid, and their successors, shall be one body politic and corporate in law, by the name and style of "The burgess and town council of the borough of Pittsburgh," and shall have perpetual succession, and the said burgess and town council aforesaid, and their successors, shall be capable in law to have, get, receive, hold and possess goods and chattels, lands and tenements, rents, liberties, jurisdictions, franchises and hereditaments, to them and their successors in fee simple or otherwise, not exceeding the yearly value of five thousand dollars, and also, to give, grant, sell, let and assign the same lands, tenements, hereditaments and rents, and by the name and style aforesaid they shall be capable in law to sue and be sued, plead and be impleaded in any of the courts of law in this commonwealth, in all manner of actions whatsoever, and to have and to use one common seal, and the same from time to time at their will to change and alter; until it shall be otherwise directed by law, the inhabitants of said borough may hold two fairs every year hereafter, to continue two days each, commencing on the first Thursday in June, and upon the first Thursday in October.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person duly elected as burgess or a member of the town council, or constable as aforesaid, and having received notice thereof as aforesaid, shall refuse or neglect to take upon himself the execution of the office to which he shall have been elected, every person so refusing or neglecting shall forfeit and pay the sum of twenty dollars; which fine and all other fines and forfeitures incurred and made payable in pursuance of this act, or of the by-laws and ordinances of the town council, shall be for the use of the said corporation.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the burgess, town council and

high constable, and each of them, before entering upon the duties of their respective offices, shall take an oath or affirmation before any justice of the peace of the said county, to support the constitution of the United States and of this state, and to execute the duties of their respective offices with fidelity; and the certificates of such oaths and affirmations shall be filed among the records of the said corporation.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the town council to meet as often as occasion may require, and elect such by-laws, and make such rules, regulations and ordinances as shall be determined by a majority of them, necessary to promote the peace, good order, benefit and advantage of said borough, particularly of providing for the regulation of the market, improving, repairing and keeping in order the streets, alleys and highways, ascertaining the depth of vaults, sinks and pits for necessary houses, and making permanent rules relative to the foundations of buildings, party walls and fences; they shall have power to assess, apportion and appropriate such taxes as shall be determined by a majority of them, necessary for carrying the said rules and ordinances from time to time into complete effect, and also to appoint a town-clerk, treasurer, two persons to act as street and road commissioners, a clerk of the market, and a collector, annually, and such other officers as may be deemed necessary from time to time: Provided, that no by-law, rule or ordinance of the said corporation, shall be repugnant to the constitution or laws of the United States or of this commonwealth; and that no person shall be punished for a breach of a by-law or ordinance made as aforesaid, until three weeks have expired after the promulgation thereof, by at least four advertisements set up in the most public places in said borough: And provided also, that no tax shall be laid in any one year on the valuation of taxable property, exceeding half a cent in the dollar, unless some object of general utility shall be thought necessary, in which case a majority of the taxable inhabitants of said borough, by writing under their hands,

shall approve of and certify the same to the town-council, who shall proceed to assess the same accordingly.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the burgess elected and qualified, agreeably to this act, is hereby authorized and empowered to issue his precept, as often as occasion may require, directed to the collector, commanding him to collect all taxes assessed, and to the high constable to collect all fines and forfeitures imposed by this act, or by the ordinances or regulations of the corporation, and the same to pay over to the treasurer; and the said burgess is hereby authorized to carry into effect all by-laws enacted by the council, and whatever else shall be enjoined on him, for the well ordering and governing said borough; he shall have jurisdiction in all disputes between the corporation and individuals arising under the by-laws.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the town-clerk to attend all meetings of the council when assembled upon business of the corporation, and perform the duty of clerk thereto, and keep and preserve the common seal and records of the corporation, and be answerable for the same, and also for the faithful discharge of all the duties which may be enjoined upon him by virtue of this act, or of the acts of the corporation, whose attestation, with the seal of the corporation, shall be good evidence of the act or thing so certified.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the treasurer shall give security for the faithful discharge of the duties of the office, and for the safe delivery of all monies, books and accounts appertaining thereto, into the hands of his successor, upon demand made for that purpose.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the street commissioners, treasurer, constable, clerk of the market and collector, as well as all other officers which may be appointed by the corporation or council, shall render their accounts to the council once in

every year, for settlement; and the said accounts being adjusted and settled accordingly, shall be forthwith published by said council, showing particularly the amount of taxes laid and collected, and of the expenditures.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That five of the town council to be chosen by lot, drawn by the town clerk in the presence of said council, annually, shall be a court of appeal, a majority of whom shall be a quorum; and prior to the collection of any borough tax the collector shall inform each inhabitant of the amount of his tax, and of the time and place of appeal: Provided nevertheless, that said court of appeal shall have no other power as such than to determine the justness of the apportionment of said tax, and to remedy any grievance that may occur in imposing the same.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the high constable to give notice of the annual elections of the said borough, by setting up advertisements in the market and three other public places in the said borough; ten days previous thereto he shall attend and see that the same is opened at the time and in the manner directed by this act: Provided, that it shall be the duty of the present high constable to publish and superintendent the election to be held on the third Saturday in March next, as is hereinbefore directed.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the burgess and town council, or a majority of them, by and with the consent and approbation of a majority of the taxable inhabitants of the borough, who by writing under their hands shall approve and certify the same, to authorize any person or persons owning lots bounded by the Allegheny river and Water street, on the Monongahela river, to build wharves and erect buildings thereon, opposite their respective lots, subject nevertheless to such rules, regulations and restrictions as the corporation may deem necessary for the construction of wharves within the limits of the borough: Provided, that such

wharf or wharves shall be so constructed as not to obstruct or impede the navigation of said rivers.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall think him, her or themselves aggrieved by any thing done in pursuance of this act, except in what relates to the imposing and collecting the borough tax, he, she or they may appeal to the next court of quarter sessions, to be held for the proper county, upon giving security according to law to prosecute his, her or their appeal with effect; and the court having taken such order therein as shall seem to them just and reasonable, the same shall be conclusive against all parties.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That from and after the third Saturday in March next, the act entitled "An act to erect the town of Pittsburgh, in the county of Allegheny, into a borough;" passed on the twenty-second day of April one thousand seven hundred and ninety-four,⁽¹⁾ be, and the same is hereby repealed.

Approved March 5, 1804. Recorded in L. B. No. 9, p. 410.
Note (1). Chapter 1771; 15 Statutes at Large, p. 161.

CHAPTER MMCDXLVIII.

AN ACT TO ENABLE THE ADMINISTRATORS OF CONRAD WEISER TO SELL AND MAKE TITLE TO CERTAIN LOTS ADJOINING THE TOWN OF SELINGSGROVE, IN NORTHUMBERLAND COUNTY.

Whereas it has been represented to the legislature that Conrad Weiser, late of Penns township, in Northumberland county, deceased, in his lifetime laid out a piece or tract of land adjoining the town of Selingsgrove, in the township aforesaid, in town and out-lots, which he called Weifersburg; part of the town lots whereof he sold in fee simple, and the out-lots, forty-two in number, of one acre each, he purposed to let out on ground rent. And whereas some of the purchasers of town-lots never received any title nor written evidence thereof of the said Conrad Weiser, although they had paid therefor, and

other of the town and out-lots lay vacant and unproductive. And whereas some of the heirs of the said Conrad are minors, by reason whereof no title can be made for lots sold by the said Conrad in his lifetime, nor can the other lots not sold by him in fee simple, be disposed of to advantage, the existing laws empowering the courts to direct the administrators to make title in certain cases, not fully comprehending the present case. And whereas Barbara Weiser, administratrix, and Benjamin Weiser administrator of the said Conrad Weiser, deceased, as well as the heirs and others interested in the estate of said Conrad Weiser, deceased, have prayed the legislature to pass a law to authorize the said administratrix and administrator to make title to the purchasers, circumstanced as above stated, and to sell and convey the other town and out-lots in fee simple, for the benefit of the estate, thereby enabling the said administratrix and administrator to pay divers large debts, which are not provided for: And whereas the said representation appears to be true; and it is just and reasonable that the prayer of the petitioners should be granted: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That Barbara Weiser, administratrix, and Benjamin Weiser, administrator of Conrad Weiser, late of Penns township, deceased, or the survivor of them, be, and they are hereby authorized, on the part and behalf of the heirs of the said decedent, to convey in fee simple all and every of the said lots so as aforesaid sold, but not conveyed by the said Conrad Weiser in his lifetime; and also to sell, grant and convey, in fee simple, all other the said town and out-lots, which were not sold in fee simple by the said Conrad Weiser in his lifetime, the said administrators first obligating themselves to the orphans court of the county of Northumberland, to apply the monies arising from such sale to the payment of such of the debts of the said deceased, and

the residue (if any there be) to pay over to the proper heirs, or their legal representatives.

Approved March 5, 1804. Recorded in L. B. No. 9, p. 416.

CHAPTER MMCDXLIX.

AN ACT TO ERECT SOMERSET TOWN, IN THE COUNTY OF SOMERSET, INTO A BOROUGH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That Somerset town, in the county of Somerset, shall be, and the same is hereby erected into a borough, which shall be called the borough of Somerset, which borough shall be comprised within the following boundaries, to wit: Beginning at the Main street, thence along the west side of Washington street due south eighty-six perches, thence a due east course to Cox's creek, thence up Cox's creek by the several meanders thereof, until it intersects a line drawn sixty perches due north of and parallel with Catherine street, thence along the said line due west to Washington street aforesaid, thence along the said street to the place of beginning.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the freemen of the said borough, who shall have resided within the same for the space of six months, and shall in other respects be entitled to vote for members of the general assembly of this commonwealth, shall on the first Monday of May, in the year one thousand eight hundred and four, and upon the first Monday in May yearly thereafter, meet together at the court house in the same borough, and shall then and there elect by ballot three reputable citizens residing therein, and the highest in votes of whom shall be chief burgess, and the others assistant-burgesses, and shall also elect a town clerk and high constable, and seven reputable citizens to be a town council, and pre-

viously to any such election the said inhabitants shall elect three citizens, one of whom shall preside as judge, one to act as inspector, and the other to perform the duty of clerk according to the directions of the general election laws of this commonwealth, so far as relates to receiving and counting votes, and shall be subject to the same pains and penalties for malpractices, as by the said laws are declared and appointed, and the said judge, inspector and clerk shall, previously to the exercise of any of their duties, take an oath or affirmation to act in their respective stations without partiality, and shall hold the said elections from time to time as often as occasion shall require, receive and count the ballots, and declare the persons having the greatest number of votes to be duly elected, whereupon duplicate certificates thereof shall be signed by the said judge, inspector and clerk, one whereof shall be transmitted to the prothonotary's office of said county, and the other filed and preserved among the records of the corporation; and if two or any greater number of persons have an equal number of votes for any of the said offices, or if an election be disputed upon other principles, the said return shall be laid before the judges of the court of common pleas of said county, at the term next ensuing said election, who, upon examination into the nature of the return, shall determine which of the said persons shall fill the said office, and in case of vacancy by death, resignation or otherwise, of any of the said officers, the said burgesses or any of them, shall issue without delay their or his process, directed to the high constable, requiring him to hold an election to fill such vacancy, he giving at least ten days notice by advertisements set up at five of the most public places within the said borough.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the burgesses and town council duly elected as aforesaid, and their successors forever hereafter, shall be one body politic and corporate in law, by the name of the burgesses and town council of the borough of Somerset, in the county of Somerset, and have perpetual succession; and it shall and may be lawful to and for the said

burgesses and town-council aforesaid, and their successors for ever hereafter, to have and use one common seal, and the same from time to time at their will to change and alter.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person duly elected burgess or a member of the town-council as aforesaid, having notice thereof shall refuse or neglect to take upon himself the execution of the office to which he shall be elected, every such person so refusing or neglecting shall forfeit and pay a fine of twenty dollars; which fines, and all other fines and forfeitures incurred and made payable in pursuance of this act, or of the by-laws and ordinances of the said burgesses and town council, shall be for the use of the said corporation.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the chief burgess, assistant-burgesses, town-clerk, high constable, and each member of the town-council, shall take and subscribe an oath or affirmation before any one of the judges or justices of the peace for the county of Somerset, to support the constitution of the United States and of this state, and well and truly to execute the duties of their respective offices in the borough of Somerset, before they shall enter upon their respective offices; and the certificates of such oath or affirmation having been made, shall be recorded in the book of the said corporation.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said burgesses and town-council to meet and assemble together as often as occasion may require, to enact such by-laws, and make such ordinances, rules and regulations, assess and appropriate such taxes as shall be thought best calculated to promote the interests of the said corporation, and preserve good order therein; which by-laws, ordinances, rules and regulations, shall not be inconsistent with the constitution and laws of this state or of the United States, and the same to revoke annul, alter and make anew, as occasion may require; but no by-laws or ordinances shall be enacted, or rules and regulations made, unless agreed to by a majority of

the burgesses and members of the town council for the time being.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the said burgesses shall be and they are hereby authorized and required to cause the by-laws, ordinances, rules, and regulations made as aforesaid, to be carried into full and complete execution without delay; and it shall be the duty of the town clerk to attend all meetings of the burgesses and town council when assembled on business of the corporation, and shall perform the duties of clerk thereto, and keep and preserve the common seal, records, papers, book and other documents relating to said corporation, under the penalty of being answerable to any person concerned for all damages, and of removal from office by the burgesses or any two of them; and the high constable shall do and perform all duties on him enjoined by this act, and the by-laws or ordinances of the burgesses and town council under the like penalties: Provided always, that if any person shall think him or herself aggrieved by any thing done in pursuance of this act, he or she may appeal to the next court of quarter sessions for the said county of Somerset, first giving security to prosecute his or her appeal with effect, which court, shall make such order therein as shall be just and reasonable.

Approved March 5, 1804. Recorded in L. B. No. 9, p. 418.

CHAPTER MMCDL.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY TO MAKE AN ARTIFICIAL ROAD FROM THE TOP OF CHESTNUT HILL, THROUGH FLOURTOWN, TO THE SPRINGHOUSE TAVERN, IN MONTGOMERY COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That John Huston, Cadwallader Evans, George Weaver, John Burk, John Roberts, Nicholas Kline, Christian Dull, Jacob Dager, and John Steele, be, and

they are hereby appointed commissioners, to do and perform the several duties hereinafter mentioned; that is to say, they shall, or or before the first day of May next, procure two books, and in each of them enter as follows: "We, whose names are hereto subscribed, do promise to pay the president, managers and company of the Chestnut Hill and Springhouse turnpike road the sum of one hundred dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportions as shall be determined by the said president and managers, in pursuance of an act of the general assembly of this commonwealth, entitled "An act to enable the governor of this commonwealth to incorporate a company for making an artificial road from the top of Chestnut Hill, through Flourtown, to the Springhouse tavern in Montgomery county. Witness our hands the day of in the year of our Lord one thousand eight hundred and four;" and shall give notice in three of the public newspapers in the city of Philadelphia and Norristown, for two weeks at least, of the times when and places where the said books will be open, to receive subscriptions of stock for the said company; at which times and places three of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, which shall be kept open for the purpose at least four hours in every juridical day, for the space of three days, if three days shall be necessary; and if at the expiration of the said three first days, the said books shall not have seven hundred shares therein subscribed, the said commissioners may adjourn from time to time until the said number of shares shall be subscribed, of which adjournment public notice shall be given in at least two public papers; and when the said subscriptions in the said books shall amount to the number aforesaid, the same shall be closed: Provided always, that every person offering to subscribe in the said books, in his own name, or in the name of any other person, shall previously pay to the attending commissioners fifteen dollars for every share to be subscribed, out of which shall be defrayed the expense attending the taking such subscriptions and other incidental charges, and the re-

mainder shall be deposited in the Bank of Pennsylvania, for the use of such corporation, as soon as the same shall be organized and the officers chosen, as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when forty persons or more shall have subscribed three hundred shares or more of the said stock, the said commissioners may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals the names of the subscribers, and numbers of shares subscribed by each subscriber to the governor of this commonwealth, whereupon he shall, by letters patent under his hand and the seal of the state, create and erect the subscribers, and if the said subscriptions be not full at the time, then also those who shall thereafter subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The Chestnut Hill and Springhouse turnpike company;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding the said capital stock, and the increase and profits thereof and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary, to fulfill the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, in fee simple, and for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners herein before named shall, as soon as conveniently may be, give thirty days notice in three public newspapers in Philadelphia and Norristown, one whereof shall be in the German language, of the time and place by them appointed for the said subscribers to meet, in order to organize the said corporation, and to

choose, by a majority of votes of the said subscribers, by ballot to be delivered in person or by proxy duly authorized, one president, twelve managers, one treasurer and such other officers as shall be deemed necessary, to conduct the business of the said company, until the second Monday of November next, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations, as do not contravene the constitution and laws of this commonwealth, and may be necessary for the well governing the affairs of the said company: Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the second Monday of November in every year at such place as shall be fixed by their by-laws, for the purpose of choosing such other officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meeting they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations, made as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, he paying fifteen dollars for each share, which certificate shall be transferable at his pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon; and the assignee, holding any certificate, having

first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the corporation; and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, and of all the estate and emolument of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places as shall be ordained by their by-laws, and when met, seven members shall form a quorum, and who in the absence of the president may choose a chairman; and shall keep minutes of all their transactions, fairly entered in a book, and a quorum being formed they shall have full power and authority to appoint all such surveyors, engineers, superintendents, and other artists and officers as they shall deem necessary, to carry on their intended works, and fix their salaries and wages, to ascertain the times when and manner and proportion in which the stockholders shall pay the monies due on their respective shares; to draw on the bank of Pennsylvania for all monies as shall have been so as aforesaid deposited, necessary to pay the salaries or wages of persons by them employed, and for the materials: Provided, such drafts shall be signed by the president, or in his absence by a majority of a quorum, and countersigned by their treasurer, and generally to do all such other acts, matters and things, as by this act and by the by-laws, rules, orders and regulations of the company they shall be authorized to do.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if after thirty days notice in three of the public newspapers printed in the city of Philadelphia and Norristown, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or dividend at the place appointed, for the space of thirty days after the time so appointed, every such stockholder or his assignee, shall, in addition to the dividends so called for, pay after

the rate of five per centum per month, for delay of such payment; and if, the same and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalties shall before equal to the sums before paid in part, and on account of such shares, the same shall be forfeited to the said company, and may and shall be sold to any person or persons willing to purchase, for such price as can be obtained for the same.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the said road shall be made in, over and upon the bed of the present road, beginning at the top of Chestnut Hill, thence extending through Flourtown, to the Springhouse tavern, in Gwynedd township, in Montgomery county: Provided always, that no surveyor, superintendent, artist or other person or persons employed by the said company to lay out the said road, shall enter upon or go through any land or lands belonging to any person or persons, without first obtaining permission of the owner or owners thereof.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company shall cause a road to be laid out, of not less than fifty nor more than sixty feet in width, in such manner as that the present buildings on said road be not injured, and at least twenty-eight feet thereof to be made an artificial road, bedded with wood, stone, gravel or any other hard substance, well compacted together, and of sufficient depth to secure a solid foundation to the same; and the said road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm, and as near as the materials will admit of it, an even surface, and so nearly level in its progress, as that it shall, in no place, rise or fall more than will form an angle of four degrees with an horizontal line, and shall forever hereafter maintain and keep the same in good and perfect order, from the top of Chestnut Hill, through Flourtown, to the Springhouse tavern, in Montgomery county, and the said president, managers and

company, shall have power to erect permanent bridges over all the waters crossing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers and company shall have perfected the said road, from the top of Chestnut Hill, the distance of two and a half miles, and also when they shall have completed the next succeeding five miles, likewise when the remainder shall be finished, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three disinterested persons to view and examine the same, and report to him in writing whether the said road is so far executed, in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report shall in either case be in the affirmative, then the governor shall, by license under his hand and the lesser seal of this commonwealth, permit and suffer the said president, managers and company, to erect and fix so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the toll and duties hereinafter granted to the said company, from all persons traveling on the same with horses, cattle, carts and carriages: Provided, that all persons attending funerals or places of worship, their horses and carriages, shall be exempt from the payment of tolls in going to and returning therefrom.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That when the said company is licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding, leading or driving any horses, cattle, or hogs, sheep, coach, coachee, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or any other carriage of burden or pleasure, from passing through the said turnpikes until they shall respectively have paid the same: that is to say, For every five miles in length of the said road, completed and licensed as aforesaid, the fol-

lowing sums of money, and so in proportion for any lesser distance, or for any greater or lesser number of sheep, hogs or cattle, to wit: For every score of hogs, six cents; for every score of sheep, six cents; for every score of cattle, twelve cents; for every horse and his rider or led horse, three cents; for every sulky, chair or chaise, with one horse and two wheels, six cents; and with two horses, nine cents; for every chariot, coach, phaeton, or chaise, with two horses, and four wheels, twelve cents; for either of the carriages last mentioned, with four horses twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and horses drawing the same; for every stage-wagon, with two horses, twelve cents; and for every such wagon, with four horses, twenty cents; for every sleigh, three cents, for each horse drawing the same; and for every sled, two cents for each horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches, and not exceed seven inches, three cents for every horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, shall roll more than ten inches, two cents for every horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than ten inches, and not exceed twelve inches, or being ten inches shall roll more than fifteen inches, one cent for every horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than twelve inches, one cent for every horse drawing the same; and if any person or persons shall represent to the said company or any of their officers, that he, she, or they, have traveled a less distance than he, she, or they have actually traveled along the said road, with intent to defraud the said company of its toll, or any part thereof, such person or persons shall, for every such offense, forfeit and pay to the use of the said company, the sum of sixteen dollars; and if any toll-gatherer shall demand and receive toll for a greater distance than the person of whom such toll is demanded, shall have travelled along the said

turnpike road, or shall demand and receive greater or other toll from any person or persons than such toll-gatherer is authorized to demand and receive by virtue of this act, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offense, to the use of the poor of the township in which the forfeiture is incurred, and for the payment of which the said company shall be responsible.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That no wagon or other carriage with four wheels, the breadth of which wheels shall not be four inches, shall be drawn along the said road between the first day of November and the first day of May following in any year with a greater weight thereon than two and a half tons, or with more than three tons the residue of the year; that no such carriage, the breadth of the wheels of which shall not be seven inches, or being six inches or more, shall not roll at least ten inches, shall be drawn along the said road between the first days of November and May, with more than three and a half tons, or with more than four tons during the residue of the year; that no such carriage, the breadth of the wheels of which shall not be ten inches or more, or being less, shall not roll at least twelve inches, shall be drawn along the said road between the first days of November and May, with more than five tons, or with more than five and a half tons during the residue of the year; that no cart or other carriage with two wheels, the breadth of which shall not be four inches, shall be drawn along the said road with a greater weight thereon than one and a quarter tons, between the said first days of November and May, or with more than one and a half tons during the residue of the year; that no such carriage, the wheels of which shall not be of the breadth of seven inches shall be drawn along the said road with more than two and a half tons, between the first days of November and May, or with more than three tons, during the residue of the year; that no such carriage the wheels of which shall not be of the breadth of ten inches, shall be drawn along the said road between the first days of November and May, with more than three and a half tons, or

with more than four tons during the residue of the year; that no greater weight than seven tons shall be drawn along the said road in any carriage whatever, between the said first days of November and May, nor more than eight tons during the residue of the year; that if any cart, wagon or carriage of burden whatsoever, shall be drawn along the said road with a greater weight than is hereby allowed, the owner or owners of such carriage shall forfeit and pay four times the customary toll, to the use of the company: Provided always, that it shall and may be lawful for the said company, by their by-laws, to alter any or all the regulations herein contained, respecting the burdens on carriages to be drawn over the said road, and to substitute other regulations, if upon experience such alterations shall be found conducive to the public good: Provided always, that such regulations shall not lessen the burdens of carriages above described.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That all such carriages as aforesaid, to be drawn by oxen in the whole, or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse, in charging all the aforesaid tolls, and every mule as equal to one horse.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order, for the space of five days, and information thereof shall be given to any justice of the peace of the neighborhood within the county where the repair ought to be made, such justice shall issue a precept to be directed to any constable commanding him to summon three disinterested persons, to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall be complained of; of which meeting notice shall be given to the keeper of the gate, or turnpike nearest thereto within the said county; and the said justice shall at such time and place, on the oaths or affirmations of the said persons, enquire whether the said road or any part thereof is in good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under

his hand and the hands of a majority of the said persons; and if the said road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to each of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair as aforesaid; and if the same shall not be so put into good and perfect order and repair, before the next general court of quarter sessions of the peace to be held for the county in which the defect is proved to be, the aforesaid justices shall certify and send a copy of the inquisition aforesaid to the justices of the said court, and the said justices shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be found defective, and shall proceed thereon as in cases of the supervisors of the highways for neglect of their duty; and if the person or persons entrusted by the said company as aforesaid, shall be convicted of the offense by the said inquisition charged, the said court shall give judgment according to the nature and aggravation of the neglect as according to right and justice would be proper in the case of supervisors of the highways neglecting their duties; and the fines and penalties so to be imposed, shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said court, and shall be paid to the supervisors of the highways of the township wherein the offense was committed, to be applied to repairing the public roads within such township.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whosoever, owning, riding in, or driving any sulky, chair or chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, riding or leading any horse, mare or gelding, or driving any hogs, sheep, or other cattle,

shall therewith pass through any private gates or bars, along or over any private passage way, or other ground near to or adjoining any turnpike or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company and avoid the payment of the toll or duty for passing through any such gate or turnpike; or if any person or persons shall, with such intent, take off or cause to be taken off any horse, mare or gelding or other cattle from any sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, or practice any other fraudulent means or device, with the intent that the payment of any such toll or duty may be evaded or lessened, all and every person or persons, in all or every or any of the ways or manners aforesaid offending, shall for every such offense respectively, forfeit and pay to the president, managers and company of the Chestnut Hill and Springhouse turnpike road any sum not exceeding ten dollars, to be sued for and recovered with costs of suit, before any justice of the peace, in like manner and subject to the same rules and regulations as debts of a similar amount may be sued for and recovered: Provided always, that if any person or persons shall be prosecuted under this section of the act, and the said prosecution shall not be sustained on the part of the prosecutors, then and in such case the person or persons prosecuted as aforesaid, shall receive from the company the sum of ten dollars, in lieu of damages arising from delay and a vexatious prosecution, recoverable as other fines under this act.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all monies received by them from the said commissioners, and from the subscribers to the said undertaking, on account of the several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also all monies by them expended in the prosecution of their said work; and shall, once at least in every year, submit such ac-

counts to a general meeting of the stockholders, until the said road shall be complete, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or whenever the capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the monies subscribed for such shares, in like manner and under like penalties as are hereinbefore provided for the original subscription, or as shall be provided by their by-laws.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company shall also keep a just and true account of all and every of the monies received by their several and respective collectors of tolls, at the several and respective gates or turnpikes on the said road, from the beginning to the end thereof, and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted among all the subscribers to the said company's stock; and shall, on the first Monday in November and May, in every year, publish the half-yearly dividend made of the said clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall, at the end of every year from the date of the incorporation, until the whole road shall be completed, lay before the general assembly of this commonwealth an abstract of their accounts, showing the whole amount of capi-

tal expended in the prosecution of the said work, and of the income and profits arising from the said tolls, for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and of all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and, if at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear, from the average profits at the end of the said two years, that the said clear income and profits thereof, will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall and may be lawful for the said president, managers and company, to increase the tolls herein above allowed, so much upon each and every allowance thereof, as will raise the dividend up to six per centum per annum; and at the end of every year after the said road shall be completed, they shall render unto the general assembly a like abstract of their accounts; and if at any time the said clear income and profits thereof shall exceed a dividend of nine per centum per annum, the surplus above that amount, when sufficient shall arise, shall be appropriated by the said president and managers to the purchase of such share or shares of the said stock, as the money arising from the said surplus as aforesaid, will be found adequate to purchase, until all the said shares shall be so purchased; and the said subscribers shall determine, by lot, from time to time, whose share or shares shall be paid off by the money arising as aforesaid; for which shares the said company shall pay the sums which were originally paid for each respective share; and when the whole number of shares shall be purchased as aforesaid, then the said road shall be free, and no toll whatever shall be exacted.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected and continued at the intersection of every public road falling into and leading out of the said turnpike road, with a board and index-hand pointing to the direction of such road; on both sides whereof shall be in-

scribed in legible characters the name of the town, village or place to which such road leads, and the distance thereof in measured or computed miles.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the top of Chestnut Hill, and extending thence to the termination of the turnpike aforesaid, whereon shall be marked, in plain, legible characters, the respective number of miles, or fractions of a mile, which each stone is distant from the top of Chestnut Hill, and city of Philadelphia; and at every gate or turnpike by them to be fixed on the said road, shall cause the distance from the top of Chestnut Hill, and the distance from the nearest gates or turnpikes in each direction, to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates, or some other conspicuous place, for the information of travelers and others using the said road; and if any person shall wilfully destroy the said posts, boards, index-hands, or milestones, or deface the same, or deface the directions made on the said gates or other conspicuous places as aforesaid; or shall, without permission of the acting superintendent of the said road, throw out upon the said road, or within the limits of the same, and suffer to remain, for the space of one day, any mould, dirt, shavings, weeds or rubbish of any kind, such person being convicted thereof by the evidence of one or more credible witness or witnesses, before any disinterested justice of the peace, of the county, he or she shall be adjudged by the said justice to pay a fine not exceeding ten dollars, to be recovered with costs, as debts of equal amount are or may be by law recoverable; which fine, when recovered, shall be paid by the said justice to the treasurer of the said company for the use of said company.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That all wagoners and drivers of carriages of all kinds, whether of burden or pleas-

ure, using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars, to any person who shall be obstructed in his passage, and will sue for the same, to be recovered with costs before any justice, in the same manner as debts of equal amount are or may be by law recoverable.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if the company shall not proceed to carry on the said work within two years after the passing of this act, or shall not within five years afterwards complete the said road, according to the true intent and meaning of this act, then, in either of these cases, all and singular the rights, liberties, privileges, and franchises hereby granted to the company, shall revert to this commonwealth.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and twenty-five, think proper to take possession of the said road, three persons shall be appointed by the governor, and three by the president and managers of the said company, and three by the judges of the supreme court, who are hereby required to appoint the same, who, or any six or more of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor of this commonwealth, who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be paid by the state to said company, their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.

CHAPTER MMCDLI.

AN ACT TO INCORPORATE "THE PHILADELPHIA BANK."

Whereas an association of citizens hath heretofore been formed in the city of Philadelphia, under the name and style of "The Philadelphia Bank," for the purpose of making loans to the merchants, traders, and other citizens of this commonwealth, upon moderate and reasonable terms. And whereas the operations of the said association are calculated to advance the interests of commerce and navigation, to encourage a spirit of improvement in agriculture, manufactures, arts, and sciences, and to aid the exertions of honest industry, and to repress the unlawful and pernicious practice of usury. And whereas the said association, on their application to the legislature for a charter (to place them on an equal footing with other citizens of the commonwealth, who are engaged in the same business) have made propositions which will be highly advantageous to the finances of this state: Therefore, with a view to embrace these objects to the commonwealth, and to facilitate the transactions of the affairs of the said association:

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all and every the persons who shall, at the time of the passing of this act, be members of the said association, called "The Philadelphia Bank," and proprietors of the capital stock thereof, shall be, and they and their successors and assigns are hereby created and declared to be, one body politic and corporate, by the name, style and title of "The Philadelphia Bank," upon the conditions hereinafter specified, and by the same name shall so continue until the first day of May, in the year one thousand eight hundred and fourteen, and no longer, and shall be able to sue and be sued, implead and be impleaded, in all courts of

record or elsewhere, and to purchase, have and hold, receive, possess, enjoy and retain, to them and their successors, lands, tenements, hereditaments, rents, goods, chattels and effects, of whatsoever kind, nature or quality, to an amount not exceeding two millions of dollars, including the amount of the capital stock of the said company, except such as may be held in security or for payment of debt, and the same from time to time to sell, grant, demise, alien or dispose of, and also to make, to have and use a common seal, and the same to break, alter and renew at pleasure, and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall appear necessary and convenient for the government of the said corporation, not being contrary to the fundamental articles thereof, or to the constitution and laws of the United States or this state, and generally to do and execute all acts, matters and things, consistently with the provisions of this act, which a corporation or body politic in law may or can lawfully do and execute.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That all the joint stock, and all other the bills, bonds, notes, or other securities, dues, claims and demands, and all the records, books, papers, vouchers, and other documents whatsoever, or in any wise belonging to, or held and claimed by the said association of citizens, at the time of passing of this act, shall be transferred to and vested in the said corporation of "The Philadelphia Bank," hereby created, as absolutely and completely, to all intents and purposes, as the same respectively shall then belong to, or be held and claimed by the said association of citizens, or by their officers and agents, for their use; and also all the bills, bonds, notes, contracts and other engagements, debts, obligations and assumptions whatsoever of the said association of citizens, entered into, made, issued, subsisting, due and payable, or to grow due and payable at the time of the passing of this act, shall thenceforth become and be as obligatory and binding upon the said incorporation of "The Philadelphia Bank," hereby created, to all intents and purposes, as if the same respectively had been entered into, made and

contracted by the said incorporation subsequent to the incorporation thereof: Provided always, nevertheless, that nothing herein contained shall, in any wise, be construed to impair the obligation of any contract at any time made or entered into by the said association of citizens.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the following shall constitute the fundamental articles of the said company of "The Philadelphia Bank," hereby created; that is to say.

Article 1. The capital stock of the Philadelphia Bank shall consist of a sum not exceeding two millions of dollars, in money of the United States, one million whereof shall be divided into shares of one hundred dollars each, to be held by the proprietors thereof at the time of the passing of this act.

Article 2. The affairs of the said Philadelphia Bank shall, for the present, be conducted by twenty-two directors, who shall be stockholders and citizens of this commonwealth, elected yearly and every year, six of whom shall be elected by the legislature of this commonwealth; that is to say, three by the senate, and three by the house of representatives; and if the state shall, at any time hereafter, subscribe four hundred thousand dollars, provided for in the fifth section of this act, in addition to three hundred thousand dollars previously subscribed for, then, and in that case, the state shall be entitled to two additional directors, who shall be elected in time and manner aforesaid, from and after which time the affairs of the bank shall be conducted by twenty-four directors; which election in either case aforesaid, shall be held during the first session of each general assembly, on such days as they shall respectively appoint in the respective houses of the legislature, and the remaining sixteen directors shall be elected by the stockholders residing within the United States (and none others shall be capable of holding stock in the Philadelphia Bank) at a general meeting to be annually held at the city of Philadelphia, on the second Monday of February, for that purpose; and the directors at their first meeting after each election shall choose one of their number as president, and nine of the directors, of whom the president shall always be one,

shall form a board or quorum for transacting all the business of the company; ordinary discounts may be done by the president, and any five of the directors; in case of his sickness or necessary absence, his place may be supplied by any other director whom he may, by writing under his hand, nominate for that purpose: Until the second Monday of February, which will be in the year one thousand eight hundred and five, or until their successors shall be duly elected, in pursuance of this act, George Clymer, John Welsh, John Gardiner, junior, Samuel Meeker, Elisha Kane, Jacob Sperry, Matthew Lawler, Louis D. Carpentier, William Guier, Joseph D. Drinker, John Bohlen, William Haslet, Jacob Shoemaker, Abraham M. Garrigues, Israel Israel, and Joseph Clark, shall be the directors of the said Philadelphia Bank, on behalf of the stockholders; if any director shall cease to be a stockholder, he shall cease to be a director, except those appointed by the legislature, who shall continue to act till their place be supplied at the next election. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the proportions following, that is to say: For one share and not more than two shares, one vote for each share; for every two shares, above two, and not exceeding ten, one vote; for every four shares, above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; but no person, copartnership or body politic shall be entitled, either in his own right or as a proxy, to a greater number than thirty votes, and no share or shares shall confer a right of suffrage which shall not be holden at least two calender months previously to the day of election; all stockholders may vote at elections or on any other question touching the bank, by proxy: Provided, the proxy be derived directly from such stockholders, be voted by a person being a citizen of this commonwealth, and be made in such form as the board of directors may appoint: Provided always, nevertheless, that in case it should at any time happen, that an election of directors should not be made upon any day, when in pursuance of this act it ought to have been made, the

said corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful, on any other day, within ten days thereafter, to hold and make an election of directors, in such manner as shall have been regulated by the by-laws and ordinances of the said corporation; and in case of a vacancy in the direction, by death, resignation or otherwise, the residue of the directors, for the time being, shall immediately elect a director to fill the said vacancy, until the next stated election of directors.

Art. 3. The board of directors of the Philadelphia Bank, for the time being, and every succeeding board, shall give public notice to the stockholders of the company, of the time and place of their meeting to choose directors in every year, at least fifteen days before such meeting, in two newspapers to be printed in the city of Philadelphia; and a fair and correct list of the stockholders shall be fixed up at least one month before any election of directors, in the common hall of the said bank; and each house of the legislature respectively shall be furnished with a list of the said stockholders, at least fifteen days previously to the time of their election of directors.

Art. 4. The board of directors shall have power to make, revise and alter, or annul, all such rules, by-laws and regulations for the government of the corporation, and that of their officers, servants and affairs, as they or a majority of them shall from time to time think expedient, not inconsistent with the laws and constitution of this state or of the United States, or of these articles of incorporation.

Art. 5. The said board of directors shall have power to appoint a cashier and all other officers, clerks and servants, necessary for executing the business of the said corporation, and take security for their good behavior, respectively, in such sum and sums as the by-laws of the corporation shall prescribe, and to establish the compensation to be paid to the president, and all the other officers and servants of the corporation, respectively, which together with all other necessary expenses, shall be defrayed out of the funds of the corporation.

Art. 6. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting; the stockholders shall make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

Art. 7. A number of stockholders, not less than sixty, who together shall be proprietors of two hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders, for purposes relative to the institution, so also shall a majority of the directors have like power for like purposes, giving, respectively, as the case may be, at least six weeks notice in two of the public newspapers printed in the city of Philadelphia, and specifying in such notice the object or objects of such meeting.

Art. 8. Every cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with condition for his good behavior, nor shall be allowed to carry on any other business than that of the bank, under the penalty of five thousand dollars.

Art. 9. No director of any other bank shall be at the same time a director of this bank, nor shall the governor, the secretary of the commonwealth, any officer in the treasury department, in the offices of accounts, or in the land office of this state, any member of congress, or any person holding or exercising any office of trust or profit under the United States, be a director of this bank.

Art. 10. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by indorsement thereupon, under the hand or hands of such person or persons, and of his, her or their assignee, or assignees, and so as absolutely to transfer, and vest the property thereof in each and every assignee, or assignees, successively, and to enable such assignee or assignees, to bring and maintain an action thereupon, in his, her, or their own names; and bills or notes which may be issued, by order of the said corporation, signed by the president and

countersigned by the principal cashier, or treasurer thereof, promising the payment of money to any person or persons, his, her or their order, or to the bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like effect, as foreign bills of exchange now are, and those which are payable to the bearer, shall be negotiable and assignable by delivery only; and all notes or bills at any time discounted by the said corporation, shall be and they are hereby placed on the same footing as foreign bills of exchange; so that the like remedy shall be had for the recovery thereof, against the drawer and drawers, indorser and indorsers, and with like effect, except so far as relates to damages, any law, custom or usage to the contrary thereof in any wise notwithstanding.

Art. 11. The legislature shall be furnished annually at their first session, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same, of the monies deposited therein, of the notes in circulation, and of the cash in hand, and shall have a right to inspect such general accounts in the books of the bank, as shall relate to the said statements: Provided, that this shall not be construed to imply a right of inspecting the account of any private individual or individuals, or any body politic or corporate with the bank.

Art. 12. The books, papers, correspondence and funds of the company, shall, at all times, be subject to the inspection of the directors; the directors shall keep fair and regular entries in a book to be provided for that purpose, of their proceedings; and on any question where two directors shall require it, the yeas and nays of the directors voting, shall be duly inserted on their minutes, and those minutes shall be at all times on demand produced to the stockholders, when at a general meeting, or to the legislature, or any committee thereof, who shall require the same.

Art. 13. The shares of capital stock, at any time owned by any individual stockholder, shall be transferable according to such rules, as conformably to law may be established in that behalf by the board of directors; but all debts actually due or

payable to the company (days of grace for payment being past) by a stockholder requesting a transfer, must be satisfied before such transfer shall be made, unless the board of directors shall direct to the contrary.

Art. 14. The lands, tenements and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation, in relation to the convenient transacting of its business, and such as shall have been bona fide mortgaged to it, by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts; not more than fifty thousand dollars shall be expended in procuring ground, and erecting suitable buildings for the accommodation of the bank.

Art. 15. The said corporation may sell any part of the public debt of which it may be possessed, but shall not directly or indirectly, deal or trade in any kind of stock, except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent, and not rendered in due time, or of goods which shall be the produce of its lands; it may invest its contingent funds in the public stocks of the United States, or any incorporated institutions in the United States; may lend money, but shall not take more than at the rate of half per centum per thirty days, for or upon its loans or discounts; and if the said corporation or any person or persons for, or to the use of the same, shall deal or trade in buying, or selling any goods, wares, merchandise or commodities whatsoever, contrary to the provisions of this act; all and every person or persons, who shall have been given any order or direction for so dealing or trading, and all and every person or persons, who shall have been concerned as parties, or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandise and commodities in which such dealing and trade shall have been, one half thereof to the use of the informer, and the other half to the use of the state, to be recovered with costs of suit.

Art. 16. Dividends of the profits of the company, or of so much of the said profits as shall be deemed expedient and proper, shall be declared and paid half-yearly during the months of March and September, in every year, and shall be determined from time to time by a majority of the said directors, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the company; so that the capital stock of the company shall never be impaired by dividends; and at the expiration of every three years from the last Tuesday of September next, a dividend of surplus profits shall be made; but the directors shall be at liberty to retain at least one per centum upon the capital, as a fund for future contingencies.

Art. 17. If the said directors shall at any time wilfully and knowingly make or declare any dividend, which shall impair the said capital stock, all the directors present, at the making or declaring such dividend and consenting thereto, shall be liable in their individual capacities to the company for the amount of proportion of the said capital stock so divided by the directors; and each director, who shall be present at the making or declaring of such dividend, shall be deemed to have consented thereto, unless he shall immediately enter in writing his dissent, on the minutes of the proceedings of the board, and give public notice to the stockholders that such dividend has been declared.

Art. 18. The total amount of the debts which the said corporation shall at any time owe, whether by bond, loan, bill or note, or other contract, shall not exceed double their capital, unless the contracting of any greater debt shall have been previously authorized by a law of the state; in case of excess the directors under whose administration it shall happen, shall be liable for the same in their individual and private capacities; and an action of debt may in such case be brought against them, or any of them, or their heirs, executors or administrators, in any court of record in this state or the United States, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant or agreement to the contrary notwithstanding; but this

shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same from being also liable for and chargeable with the said excess; such of said directors, who may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the governor of the state, and to the stockholders at a general meeting, which they shall have power to call for that purpose.

Art. 19. The bills or notes of the said corporation, originally made payable, or which shall become payable on demand, shall be receivable in payments from the bank to the state of Pennsylvania.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That this act and the corporation hereby created, shall continue in force until the first day of May in the year one thousand eight hundred and fourteen: Provided always, nevertheless, that the powers and obligations of the corporation shall in all respects continue, for the purpose of bringing the affairs thereof, which shall be depending on the said first day of May in the year one thousand eight hundred and fourteen, to a final settlement and termination.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That in addition to the one million of dollars which has already been subscribed and paid into the Philadelphia Bank by the private stockholders of the said bank, six hundred thousand dollars of new stock shall be created, three thousand shares of which stock the governor of this commonwealth is hereby authorized to subscribe, and for which shares the said corporation shall receive in payment the sum of three hundred thousand dollars of six per centum stock of the United States, the property of this state, at par; and as soon as the sum of one hundred and thirty-five thousand dollars shall have been passed to the credit of the state, on the books of the institution, as a gratuity for this charter; which sum of one hundred and thirty-five thousand dollars aforesaid, shall be drawn out as the exigencies of the state

may require, by warrants drawn by the state treasurer for that purpose, the governor is hereby directed to transfer to the said Philadelphia Bank the said sum of three hundred thousand dollars of six per centum stock of the United States aforesaid; which stock so transferred shall become the sole property of the Philadelphia Bank, and the other three hundred thousand dollars of new stock created as aforesaid, shall be disposed of by the corporation, for the benefit of the institution.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That whenever the legislature of the state may require it, the said bank shall loan to the commonwealth a sum not exceeding one hundred thousand dollars, at an interest not exceeding five per centum per annum, for any term not exceeding ten years. And further, the commonwealth shall have the right at the end of four years from the passing of this act, to subscribe two hundred thousand dollars to said bank, and to pay for the same at par; and, again, at the expiration of eight years from the passing of this act, to subscribe other two hundred thousand dollars to the said bank, and to pay for the same at par; which subscriptions of four hundred thousand dollars shall be for the sole use and benefit of the commonwealth: Provided always, nevertheless, that if the said Philadelphia Bank should fail, neglect or refuse faithfully to fulfill the payments required of the said bank in this act, according to the true intent and meaning thereof, then this act shall become null and void, and the state shall be released from her engagements on her part, as fully to all intents and purposes as if this act had never been passed; and the said bank shall re-transfer to the state the three hundred thousand dollars of six per centum as aforesaid.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any person who shall be convicted of having, after the passing of this act, been concerned in printing, signing or passing any counterfeit note, or notes of the Philadelphia Bank, knowing them to be such, or altering any genuine note or notes of the said bank, shall be sentenced to undergo a confinement in the jail and penitentiary house of Philadelphia, for any time not less than four

nor more than fifteen years, and shall be kept, treated and dealt with in all things, as is prescribed by an act, entitled "An act to reform the penal laws of this state, passed April the fifth one thousand seven hundred and ninety."⁽¹⁾

Approved March 5, 1804. Recorded in L. B. No. 9, p. 435.

Note (1). Chapter 616; 13 Statutes at Large, p. 511. See also Chapter 2528 (Act January 8, 1805, P. L. 8), *infra* this volume, p. 885; Chapter 2654, (Act March 1, 1806, P. L. 382), 18 Statutes at Large; and Chapter 3042, (Act March 3, 1809,) 18 Statutes at Large.

CHAPTER MMCDLII.

AN ACT FOR THE RELIEF OF ROBERT HARRIS.

Whereas Robert Harris, a native of Scotland, in the kingdom of Great Britain, hath represented to the legislature, that having arrived in this state, with an intention of residing therein, in the month of June, anno domini one thousand eight hundred and two; that in the month of August following he purchased of James M'Cahrin a plantation of two hundred and seventeen acres of land, situated in Westnantmill township, in the county of Chester, bounded by lands of Charles Reed, David Denny, Samuel Byers, and others, for the sum of twelve hundred pounds; of which sum five hundred and seventy pounds was paid at the time he received his deed, and secured the payment of the residue to the said James M'Cahrin, and has been in possession of the premises since April last. And whereas it appears that the petitioner, at the time of his purchase, was unacquainted with the laws relative to aliens purchasing and holding lands within this commonwealth. And whereas it has been represented to the legislature, that the petitioner has made a bona fide purchase of the said lands and resides thereon, with an intention of becoming a citizen of the United States, according to laws enacted in that behalf: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That the title to all and singular the above described real estate, with the appurtenances acquired by the said Robert Harris, by deed of indenture made to him by the above named James M'Cahrin, shall be and remain as firm, valid and effectual in law, to all intents and purposes whatsoever, as if the said Robert Harris had previously thereto taken and subscribed a declaration of his intention to become a citizen of the United States, any thing in the aforesaid act, entitled "An Act to enable aliens, in certain cases, to purchase and hold real estate within this commonwealth,"⁽¹⁾ or in any other act to the contrary thereof in any wise notwithstanding.

Approved March 12, 1804. Recorded in L. B. No. 9, p. 446.

Note (1). Chapter 2088; 16 Statutes at Large, p. 337.

CHAPTER MMCDLIII.

AN ACT AUTHORIZING JOSEPH POTTS AND JOSEPH THOMAS, ADMINISTRATORS OF MARTHA POTTS, DECEASED, TO SELL AND CONVEY A CERTAIN MESSUAGE AND LOT OF LAND, IN THE TOWNSHIP OF PLYMOUTH, AND COUNTY OF MONTGOMERY.

Whereas it has been represented to the legislature, that Zebulon Potts, late of the county of Montgomery, deceased, was in his lifetime lawfully seized in his demesne, as of fee, of and in a considerable real estate, in the township of Plymouth, and county aforesaid, and by his last will and testament did give and bequeath unto his wife Martha Potts, all his real estate during her natural life, with full power and authority to sell and convey the same, or any part thereof, and to execute sufficient deeds for the same; and that after her decease the residue should be equally divided among all his children. And whereas it has been also represented to the legislature, that the said Martha Potts has since deceased intestate, leaving a portion of the said real estate unsold. And whereas it is further represented to the legislature, by the administrators to the said Martha Potts, deceased, by their petition, that it would be much to the advantage of the chil-

dren and heirs of the said Zebulon Potts, that the residue of the said real estate, should be sold for their benefit: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Joseph Potts and Joseph Thomas, administrators to the estate of Martha Potts, late of the township of Plymouth, and county of Montgomery, deceased, be, and they are hereby authorized to sell and convey, in fee simple, a certain messuage and tract, or piece of land, situate in the township of Plymouth aforesaid, containing seventeen acres, more or less, adjoining lands of David Lukins, William Shepherd and others, being a part of the real estate of Zebulon Potts, late of the township of Plymouth aforesaid, deceased; which conveyance shall be as valid in law, as if the said Martha Potts, executrix of the said Zebulon Potts, had executed the same in her lifetime.

Approved March 12, 1804. Recorded in L. B. No. 9, p. 447.

CHAPTER MMCDLIV.

AN ACT TO AUTHORIZE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR ERECTING A BRIDGE OVER THE RIVER DELAWARE, NEAR TO THE TOWN OF MILFORD, IN THE COUNTY OF WAYNE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Samuel Johnson, John Biddis, John Brodhead, John Brink, and Hugh Ross, of the county of Wayne, and commonwealth of Pennsylvania, and Thomas Anderson, Daniel Stewart, John Guston and Jedediah Sayr, of the county of Sussex, and state of New Jersey, be, and they are hereby appointed commissioners, to do and perform the several duties hereinafter mentioned; that is to say, They shall and may, on or before the first day of May next, procure at

least three books, and therein enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president, managers and company, for erecting a bridge over the river Delaware, near Milford, in the county of Wayne, the sum of fifty dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers, in pursuance of an act of the general assembly, entitled "An act to authorize the governor of this commonwealth to incorporate a company for erecting a bridge over the river Delaware, near the town of Milford, in Wayne county. Witness our hands day of

in the year of our Lord one thousand eight hundred and

;" and shall thereupon give notice in one of the public newspapers printed at Philadelphia, in the newspaper printed at Easton, in the county of Northampton, and in a newspaper printed at Goshen, in the county of Orange, state of New York, for one calendar month at least, of the times and places in the city of Philadelphia, the town of Milford, and state of New Jersey, when and where the said books shall be opened to receive subscriptions for the stock of the said company; at which respective times and places some one of the said commissioners shall attend, and shall permit all persons who shall offer to subscribe in the said books, which shall for that purpose be kept open at least six hours in every juridical day, for the space of at least three juridical days, if three days shall be necessary; and in any of the juridical days, within the hours aforesaid, any person of the age of twenty-one years, shall have liberty to subscribe in his own name, or in the name or names of any person or persons by whom he shall be authorized, for one share; on the second day for one or two shares; on the third day for two or three shares, and on any succeeding day, while the books shall remain open, for any number of shares in the said stock; and if at the expiration of the said three first days, the said book opened at Philadelphia shall not have one hundred and fifty shares therein subscribed, or the book to be opened at Milford shall not have one hundred and fifty

shares therein subscribed, or the book opened in the state of New Jersey shall not have one hundred and fifty shares therein subscribed, the said commissioners respectively may adjourn from time to time, until the said number of shares shall be subscribed; of which adjournment public notice shall be given at each place; and when the said subscriptions in the said books shall amount to the respective numbers aforesaid, the same shall be respectively closed; and if before the said subscriptions shall be declared to be full, applications shall be made to subscribe more shares than will fill the said books, or either of them, then the said commissioners respectively, shall apportion the whole number of shares at such respective places, among all those who shall have subscribed, or offered to subscribe as aforesaid on that day, at such place, by deducting from the subscribers of more shares than one, such proportion of the shares by them respectively subscribed, as will leave every person one or more shares; but if after any of the said books shall have been opened, at any of the respective places aforesaid, for the space of three calendar months, the whole number of shares, to the places hereinbefore respectively allotted shall not have been subscribed, the said book or books may be respectively transferred to any other of the said places, and there kept open as aforesaid until the said subscription shall be full as aforesaid, public notice being given thereof at the places whence and whereto the said book or books shall be respectively transferred: Provided always, that every person offering to subscribe in the said books, in his own name, or any other name, shall previously pay to the attending commissioner or commissioners, ten dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking of such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation as soon as the same shall be organized and the officers chosen, as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when twenty-five persons or more shall have subscribed one hundred shares in the said stock, the said commissioners respectively may, and when the

whole number of shares shall be subscribed, shall certify under their hands and seals the names of the subscribers, and the number of shares subscribed by or apportioned to each subscriber, to the governor of this commonwealth, and thereupon it shall and may be lawful for the governor, by letters patent and under his hand and the seal of the state, to create and erect the subscribers; and if the said subscriptions be not full at that time, then also those who shall afterwards subscribe to the numbers aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The president, managers and company, for erecting a bridge over the river Delaware, near the town of Milford;" and by the said name the said subscribers shall have perpetual succession, and all privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and increase and profits thereof, and enlarging the same from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary, to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, in fee simple, or for any less estate, all such lands, tenements, hereditaments, estate real and personal, as shall be necessary and convenient to them in the prosecution of their works, and the same to sell and dispose of at their pleasure, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That five of the persons named in the letters patent shall, as soon as conveniently may be after sealing the same, give notice in one or more of the public newspapers in Philadelphia, and also in the public newspapers printed at Easton, Northampton county, and in one or more of the public newspapers printed in the state of New Jersey, of a time and place by them to be appointed, not less than thirty days from the time of issuing the first notice; at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers, by ballot to be delivered in person or

by proxy duly authorized, one president, six managers, one treasurer and such other officers as they shall think necessary, to conduct the business of the said company for one year, and until other officers shall be chosen, and may make such by-laws, rules, orders and regulations, not inconsistent with the laws of this commonwealth, as shall be necessary for the well ordering the affairs of the said company: Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such meetings, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the stockholders shall meet on the first Monday in May in every succeeding year, in such place as shall be fixed by the rules and orders of the said company, to be made as aforesaid, for the purpose of choosing such officers as aforesaid for the ensuing year.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first to be chosen as aforesaid, shall procure certificates, to be written or printed, for all the shares of stock of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the seal of the corporation, to each person for every share by him subscribed and held, he paying to the treasurer, in part of the sum due thereon, the sum of twenty dollars for each share; which certificate shall be transferable at his pleasure, in person or by attorney, in presence of the president or treasurer, subject however to the payments due and to become due thereon, and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for the purpose, shall be a member of the corporation, and for each certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the president and managers shall meet at such times and places, and be convened in such manner as shall be agreed on, for transacting their business; and at such meetings five members shall be a quorum who in the absence of the president may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with and appoint such engineers, superintendents, artists and other officers as they shall think necessary, to carry on the said bridge, and to fix their salaries and other wages, to ascertain the times, manner and proportions in which the stockholders shall pay the money due on their respective shares, in order to carry on their work; to draw orders on the treasurer for all monies; to pay the salaries of persons by them employed, and for the materials provided, and labor done, and which shall be signed by the president, or in his absence by a majority of a quorum, and countersigned by their clerk; and to do and transact all other such acts, matters and things, as by the by-laws, orders and regulations of the said company shall be committed to them.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder after thirty days notice given in some one or more of the public newspapers printed at Philadelphia, Easton and New Jersey, respectively, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, shall neglect to pay such proportion at the time appointed, for the space of forty days after the time so appointed, every such stockholder or his assignee, shall in addition to the dividend so called for, pay at the rate of five per centum per month for every delay of such payment; and if the same and the additional penalties shall remain unpaid for such space of time that the accumulated penalties shall become equal to the sums before paid on account of such shares, the same shall be forfeited to the said company, and may and shall be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the president and managers aforesaid, their superintendents, engineers and artists, to enter into and upon all the lands, tenements and inclosures near to the place where the said bridge is to be built, and to take any stones from fish-dams, and to examine the ground for the purpose of opening quarries of stones and obtaining gravel, sand or other materials necessary for building the said bridge; and that it shall and may be lawful for the said managers, overseers, superintendents, or any other person employed in building the said bridge, to enter with wagons, carts, sleds or sleighs, or beasts of burden or draught of any kind whatsoever, first giving notice to the owners, doing as little damage as possible, and repairing any breaches in fences they may have occasion to make, and making amends for any damage that may be done; which damage shall be ascertained by the parties if they can agree, or if they cannot agree, then by appraisement, to be made as hereinafter directed, upon oath or affirmation, by three disinterested freeholders, or any two of them to be mutually chosen; or if the owners or the said managers, superintendents, engineers or artists, upon due notice, shall neglect or refuse to join in the choice, then the said freeholders to be appointed by any justice of the peace of the county not interested on either side; and the said managers or other persons employed by them as aforesaid, after tender of the appraised value to the owner, may enter and dig, take and carry away any stone, gravel, sand or earth, most conveniently situated for making and repairing the said bridge.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all monies received by them from the said commissioners, and from the subscribers to the said undertaking, and of all penalties for delay in the payment thereof, and of the amount of the profits or shares that may be forfeited as aforesaid, and of all voluntary contributions, and also of all monies by them expended in the prosecution of the said work; and shall at

least once in every year submit such accounts to a general meeting of the stockholders, until the said bridge be completed, and until all costs, charges and expenses for effecting the same shall be fully paid and discharged; and the aggregate amount of all such expenses shall be liquidated and ascertained; and if upon such liquidation, or whenever the whole capital stock of the company shall be nearly expended, it shall be found that the said capital stock is not sufficient to complete the said bridge, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting, to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the money subscribed for such shares, in like manner and under the like penalties as are hereinbefore provided for the original subscription.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That when a good and complete bridge is erected over the said river Delaware at the place aforesaid, the property of the said bridge shall be vested in the said company as aforesaid, their successors and assigns forever; and the said company, their successors and assigns, may demand and receive toll from travellers and others, agreeably to the following rates, to wit: For every coach, landau, chariot, phaeton or other pleasurable carriage, with four wheels, twenty cents for each horse drawing the same; for every wagon with four horses, seventy cents; and for every carriage of the same description, drawn by two horses, forty cents; for every chaise, riding-chair, sulky, cart or other two wheel carriage, or a sleigh or sled, with two horses, thirty cents; and for the same with one horse, twenty cents; for a man and horse, eight cents; for every led horse or mule, five cents; for every foot passenger, two cents; for every head of horned cattle, two cents; for every sheep or swine, one cent each: Provided always, that the said bridge shall in no wise injure, stop or interrupt the navigation of the said river, or

prevent boats from crossing, or persons from fording the said river.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That in fixing the toll of all carriages to be drawn wholly by oxen, or partly by horses, and partly by oxen, two oxen shall be estimated equal to one horse.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if the said company, their successors and assigns, and whosoever shall own or possess the said bridge, shall collect or demand any greater rates or prices for the passing over the said bridge than what is hereinbefore prescribed and specified, or shall neglect to keep the said bridge in good repair, he, she or they so offending, shall for every such offense, forfeit and pay the sum of twenty-five dollars, one moiety thereof for the use of the poor of the township of Upper Smithfield, in the county of Wayne, and the township of Montague, in the county of Sussex, and state of New Jersey, equally to be divided, and the other moiety for the use of the person who may sue for the same: Provided always, that no suit or action shall be brought unless within thirty days after such offense shall be committed.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall keep a just and true account of all and every the monies received by their several and respective collectors of tolls for crossing the said bridge, and shall make and declare a dividend of the profits and income thereof among all the subscribers to the said company's stock, deducting first therefrom all contingent costs and charges, and such proportion of the said income as may be deemed necessary for a growing fund, to provide against the decay, and for rebuilding and repairing of the said bridge; and shall on every first Monday in April and October of every year, publish the dividend to be made of the said clear profits thereof among the stockholders, and of the time and place where and when the same shall be paid, and cause the same to be paid accordingly.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall, at the end of two years next after the bridge aforesaid shall be completed, lay before the general assembly of this commonwealth an abstract of their accounts, showing the whole of the capital expended in the prosecution of the said work, and of the income and profits arising from the toll, for and during the said period, together with an exact account of costs and charges of keeping the said bridge in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after the said bridge shall be completed, it shall appear from the average profits of the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall and may be lawful for the said president, managers and company, to increase the tolls herein allowed, so much as will raise the dividends to six per centum per annum; and at the end of every ten years after the said bridge shall be completed, they shall render to the general assembly a like abstract of their accounts for three preceding years; and if at the end of any such decennial period, it shall appear from such abstract the clear profits and income of the said company will bear a dividend of more than ten per centum per annum, then the said tolls shall be so reduced as will reduce the said dividend to ten per centum per annum.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That nothing in this act shall be deemed, taken or construed, to authorize or empower the governor to incorporate, or empower any persons subscribing as aforesaid, or shall give any power or authority to such subscribers, to do any act, matter or thing herein mentioned, until such time as the legislature of the state of New Jersey shall by law vest the like power and authority in such subscribers, to erect the said bridge and extend the same across to the opposite shore, with as full and ample powers, privileges, franchises, and emoluments, as to the said sub-

scribers, are herein given; and the said subscribers, having such authority, shall be incorporated as aforesaid, and shall proceed in the said work with all convenient speed; and if the said company shall not proceed to carry on the said work within the space of four years after they shall have been incorporated, or shall not within the space of ten years from the passing of this act, and a similar act shall be passed by the legislature of New Jersey, complete the said bridge, it shall and may be lawful for the legislature of this commonwealth to resume all and singular the rights, liberties and privileges hereby granted to the said company.

Approved March 12, 1804. Recorded in L. B. No. 9, p. 448.

CHAPTER MMCDLV.

AN ACT ERECTING ONE NEW ELECTION DISTRICT, AND CHANGING THE PLACES OF HOLDING ELECTIONS IN TWO OTHER DISTRICTS, IN THE COUNTY OF NORTHUMBERLAND.

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act the township of Chillisquaque, in the county of Northumberland, shall be, and the same is hereby erected into a separate election district, to be called Chillisquaque district, and the electors thereof shall hold their elections at the house now occupied by William Dale, in the aforesaid township.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the place of holding the elections in the seventh election district, in the county aforesaid, be, and the same is hereby changed, from the house of David Fowler, to the house of Abraham Miller, in Bloom township; and that the place of holding elections in the fourteenth election district, in the county aforesaid, be, and the same is hereby changed from the house of Henry Gross, to

the house now occupied by Peter Apple, in Beaver township, any law or laws to the contrary hereof notwithstanding.

Approved March 12, 1804. Recorded in L. B. No. 9, p. 457.

CHAPTER MMCDLVI.

AN ACT TO ERECT WEISENBERG AND LYNN TOWNSHIPS, IN THE COUNTY OF NORTHAMPTON, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Weisenberg and Lynn townships, in the county of Northampton, be, and are hereby erected into a separate election district, to be called the twelfth district; and the electors thereof shall, from and after the passing of this act, hold their elections at the house now occupied by George Grim, in Weisenberg township aforesaid.

Approved March 12, 1804. Recorded in L. B. No. 9, p. 457.

CHAPTER MMCDLVII.

AN ACT TO ENABLE ALEXANDER M'PHERSON TO OBTAIN A TITLE TO A LOT OF LAND IN THE TOWNSHIP OF SALISBURY, AND COUNTY OF CHESTER.

Whereas it has been represented to the legislature, that Alexander M'Pherson did purchase of his brother-in-law David Cowan, and Catharine his wife, a lot of land, containing twenty-six acres and an half of an acre, situate in the township of Sadsbury, in the county of Chester, and hath actually paid the full consideration for the same, according to the terms of an agreement made in the lifetime of the said Catharine, who is since dead, by reason whereof he is deprived of the means of obtaining a title thereto; and as no written contract was made respecting the premises, he the said David

Cowan therefore prays the legislature to authorize him to execute a deed to him the said Alexander M'Pherson, his heirs and assigns. And whereas the said representation appears to be true, it is just and reasonable that the prayer of the petitioner ought to be granted: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the said David Cowan be, and he is hereby authorized to convey to the said Alexander M'Pherson, his heirs and assigns, the lot of land aforesaid, situate in the township of Sadsbury, and county of Chester, containing twenty-six acres and an half, agreeably to the terms of his agreement aforesaid, in as full and ample a manner as he could do if his late wife was at this time in full life and voluntarily joined in the same.

Approved March 12, 1804. Recorded in L. B. No. 9, p. 458.

CHAPTER MMCDLVIII.

A SUPPLEMENT TO AN ACT, ENTITLED "AN ACT TO ENABLE EXECUTORS AND ADMINISTRATORS, BY LEAVE OF COURT, TO CONVEY LANDS AND TENEMENTS CONTRACTED FOR WITH THEIR DECEDENTS, AND FOR OTHER PURPOSES THEREIN MENTIONED." (1).

Whereas doubts have arisen whether the executor of an executor, or the administrator, de bonis non, or, in other words, the administrator of the goods unadministered, could by leave of court convey lands and tenements contracted for with the first decedent, agreeably to the provisions of an act passed the thirty-first day of March one thousand seven hundred and ninety-two, entitled "An act to enable executors and administrators, by leave of court, to convey lands and tenements contracted for, with their decedents, and for other purposes therein mentioned:"⁽¹⁾ Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That in all cases that have or may hereafter happen, the executor of an executor, the administrator de bonis non, or, in other words, the administrator of the goods unadministered, and so on in succession, shall have equal powers with executors and administrators, in the first instance, by leave of court, to convey lands and tenements contracted for with their first decedents, agreeably to the provisions of the act, entitled "An act to enable executors and administrators, by leave of court, to convey lands and tenements contracted for with their decedents, and for other purposes therein mentioned," passed the thirty-first day of March anno Domini one thousand seven hundred and ninety-two.⁽¹⁾

Approved March 12, 1804. Recorded in L. B. No. 9, p. 459.

Note (1). Chapter 1618; 14 Statutes at Large, p. 220.

CHAPTER MMCDLIX.

AN ACT TO INCORPORATE THE DELAWARE INSURANCE COMPANY OF PHILADELPHIA.

Whereas it appears to the legislature, that the security and independence of commerce will be promoted, and the losses and misfortunes of navigation alleviated, by the incorporation of companies with competent capitals, and under proper regulations, for the purpose of making insurance on maritime and other risks: And whereas the interest of the state, both in its commerce and agriculture, will be the better assisted by making insurances at home than abroad; and it having been represented to the legislature, that an association of citizens hath heretofore been formed in the city of Philadelphia, for the purposes aforesaid, under the title of "The Delaware Insurance Company of Philadelphia," who by their petition have prayed to be incorporated: Therefore to facilitate the transactions of the said association by the aid of an act of incorporation,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all and every the persons, who shall at the time of the passing of this act be members of the said association, called, "The Delaware Insurance Company of Philadelphia," and proprietors of the capital stock thereof, shall be, and they are hereby created and declared to be one body politic and corporate, by the name, style and title of "The Delaware Insurance Company of Philadelphia;" and by the same name shall have perpetual succession, and shall be able to sue and be sued, implead and be impleaded, in all courts of record or elsewhere, and to purchase, receive, have, hold and enjoy to them and their successors, lands, tenements and hereditaments, goods and chattels, of what nature, kind or quality soever, real, personal or mixed, or choses in action, and the same from time to time to sell, grant, demise, alien or dispose of: Provided, that the clear yearly income shall not at any time exceed ten thousand dollars; and also to make and have a common seal, and the same to break, alter and renew at pleasure, and also to ordain, establish and put in execution, such by-laws, ordinances and regulations as shall appear necessary and convenient for the government of the said corporation, not being contrary to the constitution, or to the laws of the United States, or to the constitution or laws of this commonwealth, and generally to do all and singular the matters and things which to them it shall lawfully appertain to do, for the well being of the said corporation, and the due managing and ordering of the affairs thereof.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That all the joint stock, and all other the estate, real, personal and mixed, and all the securities, debts, dues, claims and demands, and all the records, deeds, books, papers, policies of insurance, bonds, bills of exchange, vouchers and other documents whatsoever, in any wise belonging to, or held and claimed by the said association of citizens, at the time of the passing of this act, shall be transferred to and vested in the said corporation of "The Delaware Insurance Company of Philadelphia," hereby created as absolutely and completely, to all intents and purposes as

the same respectively now belong to or are held and claimed by the said association of citizens, or by their officers and agents, for their use; and all the policies, contracts and other engagements, debts, obligations and assumptions whatsoever, of the said association of citizens entered into, made, subsisting, due and payable, or to grow due and payable, at the time of the passing of this act, shall thenceforth become and be as obligatory and binding upon the said corporation of "The Delaware Insurance Company of Philadelphia," hereby created, to all intents and purposes as if the same respectively had been entered into, made and contracted by the said company, subsequent to the incorporation thereof; and all policies of insurance, contracts, grants and obligations whatever, wherein or whereby any person or persons now are held or bound, to the payment of any monies, or the performance of any act, matter or thing whatever, to the said association of citizens, shall be and are hereby declared to be due and payable to and vested in the said corporation; and it shall be lawful for the said corporation, and for the parties who have as aforesaid contracted with the said association of citizens, respectively, to maintain actions and otherwise enforce the due performance of all such contracts, as fully as if the same had been originally made with the said corporation: Provided always, nevertheless, that nothing herein contained shall in any wise be construed to impair or affect the obligation of any contract at any time entered into, by or with the said association of citizens.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the capital stock of "The Delaawre Insurance Company of Philadelphia," shall amount to five hundred thousand dollars, that the same shall be divided into five thousand shares of one hundred dollars each, a fifth part whereof shall consist of shares in the capital stock of any bank in the city of Philadelphia, and the other four-fifths in specie; and that the capital stock of the company by this act incorporated, shall be held by the proprietors thereof at the passing of this act, and be transferable by them

and their assigns, respectively, on the terms and in the manner hereinafter specified; and the stockholders having already paid two dollars in specie, and twenty dollars in bank stock, on each share by them respectively subscribed, according to the terms of the articles of their association, shall pay the balance for the share or shares by them respectively subscribed in the company by this act incorporated, in the following proportions, to wit: Eighteen dollars on each share on the tenth day of June next; twenty dollars more on each share on the tenth day of September next, and the residue due and payable on each share at such time and times, and in such proportion and proportions as the president and directors of the company shall declare and require, giving at least thirty days notice previous thereto, in two public newspapers printed in the city of Philadelphia; and the stockholders who shall neglect or refuse to pay all or any part of the said instalments, at the time and times prescribed as aforesaid, shall forfeit for the use of the company hereby incorporated, as well all the money previously paid, as the bank stock transferred in payment of shares subscribed as aforesaid, together with all right, title, interest, emolument, profit, claim and demand whatsoever, of, in to and out of the capital stock and funds of the company by this act incorporated, and the profits arising, and to arise therefrom, by reason or on account of the share and shares so forfeited, and so much of the capital stock and funds of the company, as it may not be necessary to reserve, for the purpose of paying demands against the company, shall be invested by the president and directors in the public debt of the United States, or in the stock of any bank or banks established in Philadelphia, or in the stock of any other monied institution established and acting in Pennsylvania, or in bills of exchange, or bonds secured by a mortgage on sufficient real estate in the city or county of Philadelphia; but a part of such capital stock, not exceeding fifty thousand dollars, may, with the approbation of a majority of the stockholders convened for that purpose, be loaned to the state of Pennsylvania; and the stock of the company shall be assignable and transferable, according to

such rules as the president and directors shall make and establish; and no stockholder indebted to the company shall be permitted to make a transfer, or receive a dividend, until such debt be paid or secured to be paid, to the satisfaction of the president and directors.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the public securities, and all other evidences of debt or duty, owing and belonging to the said company, shall be taken in the name of "The Delaware Insurance Company of Philadelphia," and all deposits for the safe keeping of the monies and securities of the said company, shall be made in such manner that the same shall always appear to be the property of the company, and be subject only to the drafts or orders of their proper officer or officers as such.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and directors of the company, for the time being, shall have full power and authority, and they are hereby expressly empowered and authorized, from time to time, to sell, dispose of and transfer, and to cause to be sold, disposed of and transferred, all or any of the public or other securities, stock or evidences of debt or duty in which the capital stock and funds of the company shall be invested as aforesaid; and the proceeds of any such sale, disposition and transfer, to reinvest in the same, or in any other of the aforesaid securities and stocks, according to the provisions and regulations aforesaid.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the affairs of the company shall be managed and superintended by fifteen directors, who at their first meeting after their election, shall choose one of their number to be president; and in case of the death, resignation or inability of the president or any director, the vacancy shall be supplied by the board of directors for the remainder of the period only, during which such president or director was elected to serve; the directors shall be chosen by ballot on the second Monday in December in each and every year hereafter, by a plurality of the votes of the stock-

holders present, in person or represented by proxy, derived directly from such stockholder, and shall serve for one year next ensuing their election, and no longer: Provided always, that Thomas Fitzsimons, John Craig, Griffith Evans, Tournier Rostain, Jacob Shoemaker, Richard Gernon, James Lattimer, Joseph D. Drinker, Augustine Bousquet, Samuel Meeker, Bohl Bohlen, William Buckley, Jacob Sperry, William M'Fadden, John Welsh, George Cureven, and Stephen Dutilh, shall be the present directors, and shall continue in office until the second Monday in December next, and until others shall be chosen: And provided also, that no stockholder shall vote at any election for directors unless the stock shall have stood in his or her own name at least three months immediately preceding such election; and none but citizens of Pennsylvania, resident within the state, shall be entitled to vote as proxies. The stockholders in all questions coming before them, and at every election for directors, shall be entitled to one vote for every three shares by them respectively held; but no stockholder shall be entitled to more than fifteen votes, in his own right. And provided, also, that in case it shall at any time happen, that an election of directors shall not be made upon any day, when pursuant to this act it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day, within thirty days thereafter, to hold and make an election of directors, in such manner as shall have been regulated by the by-laws and ordinances of the said corporation.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That there shall be a general meeting of the stockholders holden at the office of the company, on the first Monday in December in every year; and a number of stockholders, who together shall be proprietors of at least one thousand shares, may at any other time call a general meeting of the stockholders upon business interesting to the company, giving at least three weeks previous public notice in two newspapers printed in the city of Philadelphia. The stockholders present in person or by proxy, shall decide upon all questions coming before any general

meeting, by a plurality of votes, subject always to the regulations hereinbefore specified in the case of the election of directors, as to votes given by proxies, and as to ratio of voting, according to the number of shares; the stockholders at their general meetings may make and ordain all necessary and lawful rules and regulations for governing and well ordering the affairs of the company; they shall fix the compensation to be allowed to the president, or to any of the directors, and they may require from the directors or any other officers of the company, any information that they shall deem useful and proper, together with the inspection of any books, papers and documents belonging to the company, with which requisition the directors and officers shall promptly comply.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the directors at the time of their election shall be citizens of the state of Pennsylvania, resident therein; and each director, at the time of his election, and during his continuance as such, shall be the holder of at least ten shares in his own right.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the directors, for the time being (besides the other powers herein given) shall and may appoint such officers, clerks and servants as they may deem necessary and proper, for transacting the business of the company, allowing a reasonable compensation for the services of such officers, clerks and servants, respectively; they shall and may also exercise all such powers, and perform all such duties, for the well governing and ordering of the affairs of said company, as the stockholders at any general meeting shall declare and prescribe; and the directors shall prepare and lay before the stockholders, at each and every general meeting, a full and true statement of the affairs of the company.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the president and directors shall have full power and authority, in the name and on the behalf of the company, to make all kinds of marine insurance, all kinds of insurance upon the inland transportation

of goods, wares and merchandises, all kinds of insurances against fire in town or country, in this state, or in any other of the United States, and insurances upon a life or lives, by way of tontine or otherwise, and they may also lend money upon bottomry and respondentia, and generally do, transact and perform all matters and things relating to the said objects, subject always to the regulations and restrictions herein contained, and to such regulations and restrictions as the stockholders shall from time to time devise and prescribe.

Section XI. (Section XI, P. L.) And be it enacted by the authority aforesaid, That all policies of insurance and other contracts and engagements, may be made and entered into, on behalf of the company, in pursuance and by virtue of this act, as well with the members of the company, individually, as with other persons, and shall be subscribed by the president, as president of "The Delaware Insurance Company of Philadelphia;" all losses arising on any policy so subscribed, shall be adjusted and paid by the president and directors, agreeably to the terms of the policy, out of the funds of the company.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the directors shall meet as a board, and shall also divide themselves into committees, each committee consisting of at least two directors. The committee shall attend in weekly rotation, at the office of the company, and together with the president shall have full power and authority to transact the current business of the company, subject always to the provisions contained in this act, to the rules and regulations made and established by the stockholders, and to the orders and instructions of the board of directors.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the board of directors shall hold stated meetings, at least once in every fortnight, and occasional meetings whenever summoned by the president; the president shall preside at all meetings of the board, and in case of his sickness or necessary absence, his place may be supplied by any other director, who shall be appointed by

the board of directors; a quorum of the board shall consist of five directors; all questions before the board shall be decided viva voce, by a plurality of votes of the directors present, and no vote shall be reconsidered by a smaller number of directors than was present when the vote was originally taken.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the directors shall on the first Monday in June, and on the first Monday in December in each and every year, declare a dividend of so much of the profits of the company, as to them shall appear advisable, and such dividend shall be paid to the respective stockholders, or to their respective agents duly empowered, in ten days after declaring the same; but the monies received as premiums on risks, which shall be undetermined at the time of declaring the dividends respectively, shall not be computed as part of the profits of the company.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That in case any loss shall at any time happen, by which the capital stock of the company shall be diminished, no dividend shall be made until the amount of such diminution shall be replaced and added to the capital; and any president, and every director, consenting to declare, make and pay any dividend until the diminution is so replaced, shall be accountable for and pay to the company the amount of the dividend declared and paid in violation of the prohibition aforesaid.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That this act shall be and continue in force until the first day of January, which will be in the year of our Lord one thousand eight hundred and fifteen: Provided always, that for the liquidation and settlement of all the past transactions and accounts of the said company, the corporate powers thereof shall be and continue effectual to all intents and purposes.

CHAPTER MMCDLX.

AN ACT TO ENABLE AND ENFORCE THE OWNERS AND POSSESSORS OF A CERTAIN TRACT OF MARSH MEADOW, SITUATE PARTLY IN THE TOWNSHIP OF LOWER CHICHESTER, AND THE TOWNSHIP OF CHESTER, IN THE COUNTY OF DELAWARE, ADJOINING THE RIVER DELAWARE, TO KEEP THE BANKS, DAMS, SLICES AND FLOOD-GATES IN REPAIR, AND FOR OTHER PURPOSES.

Whereas there is a certain tract or parcel of marsh and meadow-land, situate partly in the township of Lower Chichester, and in the township of Chester, in the county of Delaware, commonly known by the name of Lower Chichester marsh-meadow, and bounded as follows, to wit: Beginning at the fast-land of Martha Smith, in the township of Lower Chichester, adjoining the river Delaware; thence by the said river Delaware to the fast-land of John Price, in the township of Chester; from thence by the fast-land, to the place of beginning; which said tract or parcel of marsh and meadow-land, hath been and now is embanked; but, inasmuch as the banks, dams, sluices and flood-gates made for stopping out the tide-waters from the same, and preventing the overflowing thereof, are not kept in good and sufficient repair, and cannot in the opinion of the owners, without a law requiring and enforcing the owners and possessors to maintain and keep good the same: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the owners and occupiers of the said tract of meadow shall be henceforth called and named the Lower Chichester meadow company, and that they, or as many of them as shall think fit, shall and may meet together, on the last Monday in March yearly, and every year hereafter, or at some other convenient time, as may be agreed upon, at the house now occupied by Jacob Derebacher, in the township of Lower Chichester, or at such other convenient place in the said township as shall hereafter be appointed

by the managers of the said company, or any two of them, to be chosen by virtue of this act; of which place and time of meeting the treasurer of the said company shall notify the owners and occupiers, by three advertisements at least in the said township of Lower Chichester, ten days before the day appointed for such meeting; and then, and there, by a majority of those present, choose by ticket in writing three fit persons, owners or possessors of land in the said district, to be managers, and one fit person to be a treasurer for the year next ensuing: Provided always, that no tenant shall have a right to be elected unless he rents four or more acres.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That if any of the owners or possessors, elected managers as aforesaid, on due notice given in writing, of his or their election, by some of the company present at the said election, shall refuse or afterwards neglect to do the duty required of him or them by this act, he or they so refusing or neglecting, his or their duty, shall forfeit and pay to the use of the company eight dollars; which fine shall be recovered by the treasurer in the manner hereafter pointed out, unless he or they have served four years successively in the said office, next before his or their said appointment, and the other managers shall proceed in the execution of their office; or if they think fit, may choose another of the said owners or possessors to be manager, in the place of any one so refusing or neglecting to serve; and if the person so elected treasurer, shall refuse or neglect to take upon him the duties, or to give the securities required by this act, he shall pay a fine of eight dollars, to the use of the company; which fine shall be recovered at the suit of the managers of the said company, or either of them, in manner aforesaid; and if the treasurer chosen as aforesaid, shall, by death or otherwise, be rendered incapable to execute the said office, the managers, for the time being, shall choose another fit person to be the treasurer for that year.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That every treasurer hereafter to be chosen, or appointed as aforesaid, shall before he takes

upon him the execution of his office, enter into an obligation to the managers, with at least one sufficient surety, in double the value of the money that may probably come into his hands during his continuance in office, as near as can be estimated by the managers, conditioned that he will once in every year or oftener, if required, render his accounts to the said managers, or a majority of them, and will well and truly account, adjust and settle with them, when required, for and concerning all monies that are or shall come into his hands by virtue of this act, or that belongs to the owners of the land in the said district, and shall well and truly pay the balance that shall appear on such settlement to be in his hands, to such person and to such services, as any two of the managers, for the time being, shall order and appoint, and not otherwise; and that he will do and execute all other matters and things as treasurer to the said company, according to the true intent and meaning of this act, and that he will, at the expiration of his time in office, well and truly pay or cause to be paid and delivered, all the money then remaining in his hands, together with the books of accounts concerning the same, and all other papers and writings in his keeping, belonging to the said company, unto his successor in the said office.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That whereas certain parts and portions of the said bank, and certain of the dams, sluices and flood-gates, have hitherto been maintained and supported at the individual expense of Martha Smith, David Trainer and Sarah his wife, the heirs of Samuel Price, Benjamin Johnston, and the heirs of David Johnston, Jonathan Dutton, Jacob Richards, Erasmus Morton, John Price, and Thomas Cobourn, the said parts and portions of the said bank, and the said dams, sluices and flood-gates shall continue to be maintained and supported as heretofore, at the expense of the said Martha Smith, David Trainer and Sarah his wife, the heirs of Samuel Price, Benjamin Johnston, and the heirs of David Johnston, Jonathan Dutton, Jacob Richards, Erasmus Morton, John

Price and Thomas Cobourn, their heirs or assigns respectively.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers, to meet together as often as they shall see occasion, to direct the necessary repairs; and the said managers or a majority of them, for the time being, are hereby empowered, authorized and required, to enter upon and inspect, at least four times in each year, the condition of the said banks, dams, sluices and flood-gates, and other things necessary for stopping out the tide, and draining the waters from the said meadows, and where they find any of the said banks, dams, sluices or flood-gates defective, or insufficient, they shall give notice thereof to the owner, owners or possessors; and if any of the said owners or possessors, after notice given by the said managers or a majority of them, shall refuse or neglect to make, amend or repair their, or any of their parts, respectively, then it shall and may be lawful for the said managers, or a majority of them, to purchase suitable materials, and together with such workmen, horses carts, barrows and other implements, as they shall think necessary, to enter into and upon any of the lands of the said delinquent, or delinquents in the said district, where the breach or defect is, and to dig and carry earth, to make, amend and repair the said banks, dams, sluices and floodgates, and to do all other things necessary for stopping out the tide, or for draining the waters off the meadows so as aforesaid found defective, or insufficient, and they shall adjust and settle the price thereof, and charge the owner or owners, or possessors so refusing or neglecting, with his, her or their respective parts of the same; and if the said owners or possessors shall, after demand made by the treasurer of the company of the amount with which they stand charged, for making, amending and repairing the said banks, dams, sluices and flood-gates, refuse or neglect to pay the full amount, into the hands of the treasurer, for the space of ten days, then it shall and may be lawful for the treasurer, forthwith to levy the aforesaid sum or sums of money, on the goods, chattels

and effects of the said delinquent or delinquents, in the same manner as the collector of the county taxes do levy and collect the same.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That all line and fast-land ditches or drains, and those leading to sluices which now are or hereafter shall be made in the said district, shall be of the width of nine feet, and of the depth of four feet, and shall be made, scoured and kept clean, at all times, by the owners or possessors of the said meadows, and that the ditch or drain, inside of and next to the bank, may be of the width of nine feet, and depth of four feet, and kept clean as aforesaid, at the discretion of the supporters of the bank, adjoining or contiguous to such ditch or drain; and if any of the said owners, occupiers or possessors, shall neglect or refuse, on notice given them or any of them, by the aforesaid managers or a majority of them, to make, amend, scour or repair their or any of their parts, respectively, it shall and may be lawful for said managers, or a majority of them, and they are hereby forthwith required and enjoined, to order any workmen to open, scour or amend the said drain, or drains, and they shall adjust and settle the price thereof, and charge the owner, owners or possessors, so refusing, or neglecting, with their respective parts of the same, and compel payment in the manner pointed out by the fifth section of this act.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the orders of any two of the managers on the treasurer of the said company, for the time being, shall be complied with or paid by the treasurer, and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if any owner or occupier shall think him or herself aggrieved by any act, order, account, proceeding or neglect of any of the said managers, such owner or occupier shall, if he, she or they think proper, choose one fit disinterested person, who, if occasion be, shall

choose a third person alike disinterested, as umpire, who shall finally settle all matters and things in dispute, that shall be referred to them by the parties, and the party entitled to the balance or damages so found, may recover the same in the manner hereinafter mentioned for the recovery of fines and penalties.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through, break down or damage any of the banks, dams, sluices or flood-gates, to the said district belonging, or shall let in any creek or water, to annoy, injure or overflow the meadows therein, and shall thereof be convicted before the judges of the court of quarter sessions in the county of Delaware, in all such cases, the person or persons so offending, shall be fined treble the value of the damages, to be assessed by two or more disinterested persons, to be appointed by the said court, to value the same; one third part of which fine shall be paid to the person or persons injured, and the remaining two-thirds thereof shall be paid to the treasurer for the use of the said company.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the managers of the district shall each of them have and receive one dollar per day for each day they shall be employed in the several duties required of them by this act; and the treasurer of the said company shall have such compensation for his services as a majority of the managers of the said district shall think adequate.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That for the purpose of paying the compensation of the managers and treasurer, and for other necessary expenses, other than those of maintaining and supporting the said banks, dams, sluices and flood-gates, it shall and may be lawful for the said managers or a majority of them, to assess a sum of money sufficient therefor, which shall be paid into the hands of the treasurer by the members of the company, in proportion to the value of the marsh held by each: Provided nevertheless, That the owners and possessors of the back-lots within the limits of the com-

pany, in addition to the sum so assessed as aforesaid, shall pay into the treasury of the company, such further sum as their proportion of the expenses of supporting and maintaining the said banks, dams, sluices and flood-gates, as shall be just and reasonable, according to the value of the said back-lots; which further sum shall and may be adjusted, by mutual agreement, between the managers and the holders of the said back-lots; and in case that the said managers and the holders of the said back-lots, cannot agree, it shall and may be lawful for the said managers to choose one disinterested person, and the holders of the said back-lots to choose one other disinterested person, as arbitrators, who, in case of disagreement, may choose a third as umpire; and the said arbitrators shall and may proceed, immediately, to determine the said further sum to be paid by the holders of the said back-lots; and the determination of the said arbitrators shall be final; and in case of neglect or refusal in any member of the said company, to pay the sum so assessed, agreed upon or awarded, the said sums shall be recovered in the manner pointed out by the last section of this act for the recovery of fines and penalties.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That all the fines and penalties made payable by this act, shall, if not otherwise pointed out, be recovered by the treasurer of the company, by suit, in his own name, in the same manner as debts of equal amount are by law recoverable: Provided always, that the delinquents shall not be entitled to stay of execution for any longer time than ten days.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 467.

CHAPTER MMCDLXI.

AN ACT TO RAISE BY WAY OF LOTTERY A SUM NOT EXCEEDING TEN THOUSAND DOLLARS, FOR THE USE AND BENEFIT OF THE TRUSTEES AND MEMBERS OF THE FOURTH PRESBYTERIAN CHURCH IN THE CITY OF PHILADELPHIA.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Alexander Moore, Robert Gordon, David Miller, Edward Hanna, Archibald Little, Robert Erwin and Robert M'Cullough, be, and they are hereby appointed commissioners, to raise, by way of lottery, a sum of money not exceeding ten thousand dollars, for the purpose of discharging the debts of the trustees, and members of the fourth Presbyterian church of the city of Philadelphia, and of enabling them to complete the building of their house of worship.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners, before they proceed to sell any tickets in the said lottery, shall lay such scheme before the governor, as shall meet his approbation, and enter into bonds to him for the due performance of their duty in selling the tickets, drawing the lottery, and paying the prizes; and each of them before entering on the duties of his appointment, shall take and subscribe an oath or affirmation, diligently and faithfully to perform the duties entrusted to him; and two of the said commissioners, at least, shall attend each day's drawing of the aforesaid lottery; and when the whole is completed shall cause an accurate list of the fortunate numbers to be published in two newspapers printed in the city of Philadelphia.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners be, and they are hereby authorized to settle and adjust all ac-

counts which may be exhibited by any person or persons, legally employed in carrying this act into effect; and that all expenses necessarily attending the same shall be paid by the aforesaid commissioners out of the net proceeds of the said lottery.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months next after publication as aforesaid, shall be considered as relinquished for the benefit of the said church.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 473.

CHAPTER MMCDLXII.

AN ACT TO ERECT A NEW ELECTION DISTRICT IN THE COUNTY OF FRANKLIN.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the township of Fannet, in the county of Franklin, shall be an election district, and the electors thereof shall hold their general elections at the school-house on the land of John Holliday and James Wallace, in Fannet township aforesaid.

March 19, 1804. Recorded in L. B. No. 9, p. 474.

CHAPTER MMCDLXIII.

AN ACT ENJOINING CERTAIN DUTIES ON THE SURVEYOR GENERAL.

Whereas, it is frequently necessary, on the trial of ejectments within this commonwealth, to ascertain the time of the return of any survey or surveys into the surveyor-general's office, by his deputies, and which, in many cases, can

only be known by entries of the time of such returns in the books of accounts kept by the said surveyor-general, in which the said deputies are charged with certain fees due to the surveyor-general on such returns; which said book is preserved in the surveyor-general's office; but it having been decided by the judges of the supreme court, on the circuit, that the said book not being a public record, the surveyor-general cannot issue an official certificate under his seal of office, of an entry therein, which can be admitted as legal evidence in a court of justice. And whereas the citizens of this commonwealth are greatly interested in the preservation of the said book of entries; and the evidence which may be derived therefrom, it becomes expedient to provide by law a mode by which extracts from the said book may be made legal evidence: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the surveyor-general shall be, and he is hereby authorized to issue certificates of any entry or entries in the books of accounts heretofore kept by the surveyor-general, containing entries of the time of bringing into his office any survey made by his deputies, or any of them, and the charges therein made against them or either of them, as acceptance fees, for the same, under the seal of his office, and to receive the usual fees for any such certificate, for which he shall account to the commonwealth; and the certificate so issued shall be deemed and admitted as legal evidence in any court within this commonwealth, any law or custom to the contrary thereof notwithstanding.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 474.

CHAPTER MMCDLXIV.

AN ACT FOR THE RELIEF OF ALEXANDER SIMONTON.

Whereas Alexander Simonton, now an inhabitant of Mercer county, a sergeant in the late Pennsylvania line, in colonel Chamber's regiment, was wounded at the battle of Brandywine, and discharged previous to the conclusion of the war; which said wound has since become so troublesome as to render him incapable of earning his subsistence by labor, and the justice and honor of the commonwealth requiring legislative attention to cases of this kind: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the proper officer shall place Alexander Simonton on the list of soldiers entitled to donation-lands; and on his application, by himself or his attorney, duly constituted, shall draw and patent to him such donation-lands as he would have been entitled to if he had served to the conclusion of the war.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 475.

CHAPTER MMCDLXV.

AN ACT TO PROVIDE FOR THE MORE EFFECTUAL EDUCATION OF THE CHILDREN OF THE POOR GRATIS.

Whereas the law passed the first day of March Anno Domini one thousand eight hundred and two, entitled "An act to provide for the education of poor children gratis,"⁽¹⁾ has not been found by experience to answer the constitutional purposes intended by it: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall be enjoined as a duty on all school masters and school mistresses, teaching reading and writing in the English or German languages, and arithmetic, to receive into their schools, and teach as aforesaid, all such poor children as shall be recommended to them by the overseers of the poor, or where there are no overseers of the poor, by a justice of the peace and two respectable freeholders of the city, district or township where such school is kept.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That upon the performance of any such service, by any school-master or school-mistress as aforesaid, the overseers of the poor, or justices of the peace and freeholders, who have recommended as aforesaid, shall certify to the commissioners of the proper county or city, the names of such poor children, the time they have been respectively taught, and the usual rate of schooling paid for other children at the same school, who shall examine such certificate, and finding it correct, shall draw an order in favor of such school-master or school-mistress for the amount, on the treasurer of the proper county or city, to be paid out of the county stock.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue in force for three years, and from thence to the end of the next session of the general assembly, and no longer, and that the act, entitled "An act to provide for the education of poor children gratis," shall be and hereby is repealed.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 476.

Note (*) Chapter 2247. Supra this volume p. ?

CHAPTER MMCDLXVI.

AN ACT TO RAISE, BY WAY OF LOTTERY, A SUM OF MONEY NOT EXCEEDING TWO THOUSAND AND SIXTY DOLLARS, TO FINISH AND COMPLETE TWO CHURCHES IN THE COUNTY OF FRANKLIN.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Peter Koon, Philip Reemer, Michael Tice, John Findley, John M'Murdie and John Scott, be, and they are hereby appointed commissioners to raise, by way of lottery, a sum of money not exceeding two thousand and sixty dollars, to be by them applied to complete and finish the German Presbyterian church in Greencastle, and the Presbyterian church in Mercersburg; that is to say, six hundred and sixty dollars to the German Presbyterian church in Greencastle; one thousand four hundred dollars to the Presbyterian church in Mercersburg.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the commissioners, before they proceed to sell any tickets in said lottery, shall lay such scheme thereof before the governor as shall meet his approbation, and enter into bonds to him for the due performance of their duty in drawing the same, and each of them before entering on the duties of his appointment, shall take and subscribe an oath or affirmation, diligently and faithfully to perform the duties hereby entrusted to him; and three or more of the said commissioners shall attend at the drawing of each day, and when the drawing shall be completed, they shall cause an accurate list of the fortunate numbers to be published, at least three times in the paper printed in the borough of Chambersburg, and shall pay and discharge all prizes that shall be legally entitled thereto, within three months after the drawing shall be finished.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months after the publication as aforesaid, shall be considered and deemed relinquished for the benefit of said churches.

March 19, 1804. Recorded in L. B. No. 9, p. 747.

CHAPTER MMCDLXVII.

AN ACT FOR THE RELIEF OF JACOB WALTER, THE LEGAL REPRESENTATIVE OF MICHAEL WALTER, DECEASED.

Whereas Jacob Walter, by his memorial, has represented to this legislature, that he is the administrator of the effects of his late brother Michael Walter, deceased, who, had been a soldier in the revolutionary war, in the third Pennsylvania regiment, and served faithfully for the term of his enlistment; and the said deceased never received the depreciation due on his pay, on account of his ill state of health, want of information, and ignorance of the laws; and that he the said Jacob Walter, incurred considerable expense in supporting his said brother, previously to his decease. And whereas it appears by a certificate from the comptroller-general, that the amount of the depreciation certificate, in the name of Michael Walter, was charged to the United States in the accounts of this commonwealth with the United States, and that the certificate for the same hath not been redeemed by this state. And whereas it is just and reasonable that the commonwealth having received the consideration, should satisfy the said claim: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the accounting officers be, and they are hereby directed to settle the accounts of Michael Walter, for the depreciation due on his pay, and the amount due to him shall be paid out of any unappropriated monies in

the treasury of this commonwealth, on a warrant to be drawn by the governor in favor of Jacob Walter, the administrator of Michael Walter aforesaid.

March 19, 1804. Recorded in L. B. No. 9, p. 478.

CHAPTER MMCDLXVIII.

AN ACT TO APPROPRIATE A SUM OF MONEY FOR VIEWING, MARKING AND OPENING THE ROAD FROM TUSCARORA VALLEY, IN MIFFLIN COUNTY, TO SHEERMAN'S VALLEY, IN CUMBERLAND COUNTY.

Whereas the opening a road over the Tuscarora mountain, from Mifflin county into Sheerman's valley, in Cumberland county, would be of public utility in facilitating an intercourse between the interior parts of the state and the northern frontier settlements, and as the opening said road is of too difficult and extensive a nature to be accomplished by the townships through which it passes: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be, and he is hereby empowered to appoint three suitable persons, to view and mark the nearest and best route for a wagon-road, from Tuscarora valley, between the Run and Hunter's gaps, so as to intersect the great road leading from Sheerman's valley to Carlisle, and shall deposit a draft of said road in the prothonotaries office of Mifflin county.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the governor be, and he is hereby authorized and empowered, to draw his warrant in favor of the commissioners of Mifflin county, on the treasurer of Cumberland county, for the sum of one thousand five hundred dollars, to be paid out of the arrearages of outstanding state taxes due from Cumberland county to this state, for which said sum the treasurer shall be entitled to a credit in the settling his accounts with the comptroller-general of this

commonwealth, on producing the warrant and a receipt for the payment of the same.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners are authorized and empowered to expend and lay out the aforesaid sum of money, on such parts of the said road as they or any two of them shall deem most expedient towards opening and improving said road: Provided, that not more than two thirds of the money be paid until the road be complete.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 478.

CHAPTER MMCDLXIX.

AN ACT FOR THE RELIEF OF THE HEIRS OF CAPTAIN JOHN BRADY, LATE OF NORTHUMBERLAND COUNTY DECEASED.

Whereas it appears to the legislature, that John Brady, late of Northumberland county, deceased, was appointed captain in the twelfth Pennsylvania regiment, commanded by colonel William Cooke; in which regiment he served until the year one thousand seven hundred and seventy-eight, when he obtained leave of absence for the purpose of assisting and defending his family against the incursions of the Indians, then committing depredations in the settlement, where they resided; and as the said captain Brady, in returning from a scout to a small fort, in which he had placed his family for safety, fell a victim to savage cruelty: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the officers of the land-office be, and they are hereby empowered and required, to grant to the heirs of captain John Brady, late of Northumberland county, deceased, a patent or patents for such quantity of donation land as an officer of his rank is entitled to, by virtue of any law or laws of this commonwealth, made in this

behalf, for the benefit of the line of this state, in the revolutionary army of the United States.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 480.

CHAPTER MMCDLXX.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY TO MAKE AN ARTIFICIAL ROAD FROM THE SUSQUEHANNA RIVER, AT OR NEAR WRIGHT'S FERRY, TO THE BOROUGH OF YORK.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That John Stewart, George Hay, George Spangler, Jonathan Mifflin, George Bard, Conrad Laub, John Stroman, Samuel Spangler, Christian Stoner, John Grier and Jacob Upp, be, and they are hereby appointed commissioners, to do and perform the several duties hereinafter mentioned; that is to say, they shall on or before the first day of May next, procure two books, and in each of them enter as follows: "We, whose names are hereunto subscribed, do promise to pay the president, managers and company of the Susquehanna and York borough turnpike road, the sum of one hundred dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportions as shall be determined by the said president and managers, in pursuance of an act of the general assembly of this commonwealth, entitled "An act to enable the governor of this commonwealth to incorporate a company for making an artificial road from the Susquehanna river, at or near Wright's ferry, to the borough of York. Witness our hands the day in the year of our Lord one thousand eight hundred and four," and shall give notice in three of the public newspapers, one in Philadelphia, one in Lancaster, and one in York, for one month at least, of the times when, and places where the said books will be open to receive subscriptions for stock of the

said company; at which times and places three of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, which shall be kept open for the purpose, at least six hours in every juridical day, for the space of three days, if three days shall be necessary; and if at the expiration of the said three first days, the said books shall not have three hundred and fifty shares therein subscribed, the said commissioners may adjourn from time to time, until the said number of shares shall be subscribed; of which adjournment public notice shall be given in at least two public newspapers; and when the said subscriptions in the said books shall amount to the number aforesaid, the same shall be closed: Provided always, that every person offering to subscribe in the said books, in his own name, or in the name of any other person, shall previously pay to the attending commissioners ten dollars for every share to be subscribed, out of which shall be defrayed the expence attending the taking such subscriptions, and other incidental charges, and the remainder shall be deposited in the bank of deposit at Lancaster, for the use of such corporation, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when the whole number of aforesaid shares shall be subscribed, the said commissioners shall certify, under their hands and seals, the names of the subscribers, and the number of shares subscribed by each subscriber, to the governor of this commonwealth, whereupon he shall, by letters patent under his hand and seal of the state, create and erect the subscribers into one body politic and corporate, in deed and in law, by the name, style and title of "The Susquehanna and York borough turnpike company;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding the said capital stock, and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such

enlargement shall be found necessary, to fulfill the intent of this act, and of purchasing, taking and holding, to them and their successors and assigns, in fee simple, and for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners herein before named, shall, as soon as conveniently may be, give thirty days notice in three public newspapers as aforesaid, one whereof shall be in the German language, of the time and place by them appointed for the said subscribers to meet, in order to organize the said corporation, and to choose by a majority of votes of the said subscribers, by ballot, to be delivered in person or by proxy, duly authorized, one president, twelve managers, one treasurer, and such other officers as shall be deemed necessary, to conduct the business of the said company, until the second Monday in March next, and until like officers shall be chosen, and may make such by-laws, rules, orders, and regulations, as do not contravene the constitution and laws of this commonwealth, and may be necessary for the well-governing the affairs of the said company: Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share by him held under the said number.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the second Monday in March in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such other officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings they shall have full power and authority to make, alter

and repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations made as aforesaid and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers, chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him or her subscribed and held, he or she paying thirty dollars for each share; which certificate shall be transferable at his or her pleasure, in person or by attorney duly authorized, in the presence of two reputable witnesses, subject however to all payments due and to grow due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for the purpose, shall be a member of the corporation; and for every certificate assigned to him or her as aforesaid, shall be entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the president and managers shall meet at such times and places as shall be directed by their by-laws, and when met, seven members shall form a quorum, and who in the absence of the president may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being formed they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers as they shall deem necessary, to carry on their intended works, and fix their salaries and wages, to ascertain the times when, and manner and proportion in which the stockholders shall pay the monies due on their respective shares; to draw on the bank for all monies which have been so as aforesaid deposited, necessary to pay the salaries or wages of persons by them employed and for the materials: Provided, such drafts shall be

signed by the president, or in his absence by a majority of a quorum, and countersigned by their treasurer, and generally to do all such other acts, matters and things, as by this act, or by the by-laws, rules, orders and regulations of the company they shall be authorized to do.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if, after thirty days notice in three of the public newspapers printed as aforesaid, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or dividend, at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, his or her assignee, shall in addition to the dividends so called for, pay at the rate of five per centum per month for delay of such payment; and if the same and the said additional penalty shall remain unpaid for such space of time, as that the accumulated penalties shall become equal to the sums before paid in part and on account of such shares, the same shall be forfeited to the said company, and may and shall be sold to any person or persons willing to purchase, for such price as can be obtained for the same.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, their superintendents, surveyors, artists, and chain-bearers, to enter into and upon all and every the lands and inclosures in, through and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing said road, and to survey, lay down, ascertain, mark and fix such route or track for the same, as in the best of their judgment and skill will combine shortness of distance with the most practicable ground from the west side of the river Susquehanna, at or near Wright's ferry to the borough of York.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, with their superintendents, engineers, artists and laborers, with their tools and instruments, carts, wagons, wains, and other carriages and beasts of draught and burden, to enter upon the lands in, over, contiguous and near to which the route and track of the said intended road shall pass, first giving notice of the intention to the owners thereof, or their representatives, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, by appraisement to be made in the manner hereinafter directed, and upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made upon oath or affirmation, by three disinterested freeholders, or any two of them agreeing, to be mutually chosen; or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of the county, not interested on either side, and on tender of the appraised value, to dig, take and carry away any stone, gravel, sand or earth, being most conveniently situated for making or repairing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That if the said road shall be laid out and founded over and upon any land, whereby the owner thereof shall suffer damage, the person or persons sustaining such damage, may make application to the court of quarter sessions of the county of York, and thereupon the court shall appoint six disinterested persons, to view and adjudge the amount of the damage so done; which, if approved of by said court, shall be paid by the company.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the president, managers and company, shall cause a road to be laid out, of fifty feet in width, and at least twenty-one feet thereof to be made an artificial road, bedded with wood, stone, gravel or any other hard substance, well compacted together, and of a sufficient

depth to secure a solid foundation to the same; and the said road shall be faced with gravel or stone, pounded, or other small hard substance, in such manner as to secure a firm, and as near as the materials will admit of it, an even surface, and so nearly level in its progress, as that it shall, in no place, rise or fall more than will form an angle of four degrees with an horizontal line, and shall forever hereafter maintain and keep the same in good and perfect order the whole distance aforesaid; and the said president, managers and company, shall have power to erect permanent bridges over all the waters crossing the said road.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers and company, shall have perfected the said road, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three disinterested persons to view and examine the same, and report to him in writing, whether the said road is executed in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license under his hand and the lesser seal of this commonwealth, permit and suffer the said president, managers and company, to erect and fix so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the toll and duties hereinafter granted to the said company, from all persons traveling on the same with horses, cattle, carts and carriages: Provided, That no toll shall be demanded or taken from any person passing or repassing from one part of his or her farm to another; and that all persons attending funerals or places of worship, their horses and carriages, shall be exempt from the payment of tolls in going to and returning therefrom.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That when the said company is licensed, in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and

every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding, leading or driving any horses, cattle or hogs, sheep, coach, coachee, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or any other carriage of burden or pleasure from passing through the said turnpikes, until they shall respectively have paid for the whole distance of the road the following sums of money, and so in proportion for any lesser distance, or for any greater or lesser number of sheep, hogs or cattle, to wit: For every score of hogs, fourteen cents; for every score of sheep, fourteen cents; for every score of cattle, twenty-eight cents; for every horse and his rider, or led horse, seven cents; for every sulky, chair or chaise, with one horse and two wheels, fourteen cents, and with two horses, twenty cents; for every chariot, coach, phaeton, or chaise, with two horses and four wheels, twenty-eight cents; for either of the carriages last mentioned, with four horses, fifty cents; for every other carriage of pleasure, under whatsoever name it may go, the like sums, according to the number of wheels and horses drawing the same; for every stage-wagon, with two horses, twenty-eight cents; for every such wagon, with four horses, fifty cents; for every sleigh, twelve and a half cents, for each horse drawing the same; and for every sled, twelve and a half cents for each horse drawing the same; and for every cart or wagon, whose wheels do not exceed in breadth four inches, fourteen cents for each horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches, and not exceed seven inches, seven cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches shall roll more than ten inches, six cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceed twelve inches, or being ten inches shall roll more than fifteen inches, four cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than twelve inches, two cents for every horse drawing the

same; and if any person or persons shall represent to the said company, or any of their officers, that he, she or they have travelled a less distance than he, she or they have actually travelled along the said road, with intent to defraud the said company of its tolls, or any part thereof, such person or persons shall, for every such offense, forfeit and pay to the use of the said company the sum of sixteen dollars; and if any toll-gatherer shall demand and receive toll for a greater distance than the person of whom such toll is demanded shall have travelled along the said turnpike road, or shall demand and receive greater or other toll from any person or persons than such toll-gatherer is authorized to demand and receive, by virtue of this act, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offense, to be paid to the supervisors of the roads, for the purpose of repairing the public roads, and highways of the township in which the forfeiture is incurred, and for the payment of which the said company shall be responsible.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That no wagon or other carriage, with four wheels, the breadth of the wheels of which shall not be four inches, shall be drawn along the said road between the first day of November and the first day of May following in any year, with a greater weight thereon than two and a half tons, or with more than three tons the residue of the year; that no such carriage, the breadth of the wheels of which shall not be seven inches, or being six inches or more, shall not roll at least ten inches, shall be drawn along the said road between the first days of November and May, with more than three and a half tons, or with more than four tons during the residue of the year; that no such carriage the breadth of the wheels of which shall not be ten inches or more, or being less, shall not roll at least twelve inches, shall be drawn along the said road between the first days of November and May, with more than five tons, or with more than five and a half tons during the residue of the year; that no cart or other carriage with two wheels, the breadth of the wheels of which shall not be four inches shall be drawn along the said

road with a greater weight thereon than one and a quarter tons, between the said first days of November and May, or with more than one and a half tons during the residue of the year; that no such carriage, the wheels of which shall not be the breadth of seven inches shall be drawn along the said road with more than two and a half tons, between the first days of November and May, or with more than three tons during the residue of the year; that no such carriage, the wheels of which shall not be the breadth of ten inches, shall be drawn along the said road between the first days of November and May, with more than three and a half tons, or with more than four tons during the residue of the year; that no greater weight than seven tons shall be drawn along the said road in any carriage whatever, between the said first days of November and May, nor more than eight tons during the residue of the year; that if any cart, wagon or carriage of burden whatsoever, shall be drawn along the said road with a greater weight than is hereby allowed the owner or owners of such carriage, shall forfeit and pay four times the customary toll to the use of the company: Provided always, that it shall and may be lawful for the said company by their by-laws, to alter any or all of the regulations herein contained, respecting the burdens on carriages to be drawn over the said road, and to substitute other regulations if, upon experience, such alterations shall be found conducive to the public good: Provided always, that such regulations shall not lessen the burden of carriages above described.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That all such carriages as aforesaid, to be drawn by oxen in the whole, or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse in charging all the aforesaid tolls, and every mule as equal to one horse.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order for the space of five days, and information thereof shall be given to any justice of the peace of the county, such justice

shall issue a precept, to be directed to any constable, commanding him to summon three disinterested persons, to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall be complained of; of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, within the said county; and the said justice shall, at such time and place, on the oaths or affirmations of the said persons, enquire whether the said road or any part thereof is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under the hands of himself, and a majority of the said persons; and if the said road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be; and from thenceforth the tolls hereby granted, to be collected at such turnpikes or gates, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put in good and perfect order and repair as aforesaid; and if the same shall not be so put in good and perfect order and repair, before the next general court of quarter sessions of the peace, to be held for the county in which the defect is proved to be, the aforesaid justices shall certify and send a copy of the inquisition aforesaid to the justices of the said court, and the said justices shall thereupon cause process to issue and bring in the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be so found defective, and shall proceed thereon as in cases of the supervisors of the highways for neglect of their duty; and if the person or persons entrusted by the said company as aforesaid, shall be convicted of the offense by the said inquisition charged, the said court shall give judgment according to the nature and aggravation of the neglect, as according to right and justice would be proper, in the case of supervisors of the highways neglecting their duties; and the fines and penalties so to be imposed, shall be recovered in the same manner as fines for

misdeemeanors are usually recovered in the said court, and shall be paid to the supervisors of the highways of the township wherein the offense was committed, to be applied to repairing the public roads within such township.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whosoever, owning, riding in, or driving any sulky, chair or chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, riding or leading any horse, mare or gelding, or driving any hogs, sheep or other cattle, shall therewith pass through any private gates or bars, or along or over any private passage way, or other ground near to or adjoining any turnpike, or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company and avoid the payment of the toll or duty for passing through any such gate or turnpike; or if any person or persons shall, with such intent, take off or cause to be taken off, any horse, mare or gelding, or other cattle, from any sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, or practice any other fraudulent means or device, with the intent that the payment of any such toll or duty may be evaded or lessened, all and every person or persons, in all or every or any of the ways or manners aforesaid offending, shall, for every such offense, respectively, forfeit and pay to the president, managers and company of the Susquehanna and York borough turnpike road, any sum not exceeding ten dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner and subject to the same rules and regulations as debts of a similar amount may be sued for and recovered: Provided always, that if any person or persons shall be prosecuted under this section of the act, and the said prosecution shall not be sustained on the part of the prosecutors, then and in such case the person or persons prosecuted as aforesaid, shall receive from the company the sum of ten dollars, in lieu of damages arising from delay, and a vexatious prosecution, recoverable as other fines under this act.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all monies received by them from the said commissioners and from the subscribers to the said undertaking, on account of the several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also all monies by them expended in the prosecution of their work, and shall once at least in every year submit such accounts to a general meeting of the stockholders until the said road shall be complete, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or whenever the capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the monies subscribed for such shares, in like manner and under like penalties as are hereinbefore provided for the original subscription, or as shall be provided by their by-laws.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall also keep a just and true account of all and every of the monies received by their several and respective collectors of tolls, at the several and respective gates or turnpikes on the said road, from the beginning to the end thereof, and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the subscribers to the said company's stock, and shall on the first Monday in November and May in every year, publish the half-yearly dividend made of

the said clear profits, among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall, at the end of every year from the date of the corporation, until the whole road shall be completed, lay before the general assembly of this commonwealth an abstract of their accounts, showing the whole amount of the capital expended in prosecution of the said work, and of the income and profits arising from the said tolls, for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear from the average profits at the end of the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall and may be lawful for the said president, managers and company, to increase the tolls herein above allowed, so much upon each and every allowance thereof, as will raise the dividend up to six per centum per annum; and at the end of every year after the said road shall be completed, they shall render unto the general assembly a like abstract of their accounts; and if at any time the said clear income and profits thereof shall exceed a dividend of nine per centum per annum, the surplus above that amount, when sufficient, shall arise, shall be appropriated by the said president and managers to the purchase of such share or shares of the said stock as the money arising from the said surplus as aforesaid will be found adequate to purchase, until all the said shares shall be so purchased; and the said subscribers shall determine, by lot, from time to time, whose share or shares shall be paid off, by the money arising as aforesaid; for which shares the said company shall pay the said sums which were originally paid for each respective share;

and when the whole number of shares shall be purchased as aforesaid, the said road shall be free, and no toll whatever shall be exacted.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected and continued at the intersection of every public road falling into and leading out of the said turnpike road, with a board and index-hand pointing to the direction of such road, on both sides whereof shall be inscribed in legible characters the name of the town, village or place to which such road leads, and the distance thereof in measured or computed miles.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause mile-stones to be placed on the side of the said road, beginning at the distance of one mile from the river Susquehanna, and extending thence to the termination of the turnpike aforesaid, whereon shall be marked, in plain legible characters, the respective number of miles which each stone is distant from Philadelphia, Susquehanna and York; and at every gate or turnpike by them to be fixed on the said road, shall cause the distance from York, and the distance from the nearest gates or turnpikes, in each direction, to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates or some other conspicuous place, for the information of travellers and others using the said road; and if any person shall wilfully destroy the said posts, boards, index-hands or mile-stones, or deface the same, or deface the directions made on the said gates, or other conspicuous places as aforesaid, or shall without permission of the acting superintendent of the said road, throw out upon the said road, or within the limits of the same, and suffer to remain, for the space of one day, any mould, dirt, shavings, weeds, or rubbish of any kind, such person, being convicted thereof by the evidence of one or more credible witness or witnesses, before any justice of the peace of the county, he or she shall be adjudged by the said justice to pay a fine not exceeding three dollars, to be recovered with costs, as debts of equal

amount are or may be by law recoverable; which fine, when recovered, shall be paid by the said justice to the treasurer of the said company for the use of said company.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars, to any person who shall be obstructed in his passage, and will sue for the same, to be recovered with costs before any justice, in the same manner as debts of equal amount are or may be by law recovered.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the company shall not proceed to carry on the said work within three years after the passing of this act, or shall not within seven years afterwards, complete the said road, according to the true intent and meaning of this act, then, in either of those cases, all and singular the rights, liberties, privileges and franchises, hereby granted to the company shall revert to this commonwealth.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the Legislature should at any time after the year one thousand eight hundred and twenty-five, think proper to take possession of the said road, three persons shall be appointed by the governor, and three by the president and managers of the said company, and three by the judges of the supreme court, who are hereby required to appoint the same; who, or any six or more of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor of this commonwealth, who, shall cause the same to be laid before the legislature, at their next session, and whenever the amount so certified shall be paid by the state to

said company, their right to take toll on the said road, together with all their rights, title, claim and interest therein, shall cease and determine.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 480.

CHAPTER MMCDLXXI.

AN ACT TO ENABLE MARGARET KEITH TO SELL AND CONVEY A CERTAIN TRACT OF LAND IN MIDDLETOWN TOWNSHIP, CUMBERLAND COUNTY.

Whereas it appears, by the petition of Margaret Keith, and documents accompanying the same, that Charles M'Haffey was possessed of a tract of land in Cumberland county, containing one hundred and ninety acres and a half, by virtue of a warrant, dated the twenty-ninth day of January, in the year one thousand seven hundred and fifty-three, for one hundred acres of land, surveyed by William Lyon, esquire, the eighteenth day of August one thousand seven hundred and sixty-one; and it also appears that the said Charles M'Haffey died intestate in Middletown township, and county aforesaid; and that Margaret Keith, alias Margaret M'Haffey, is the only daughter and heir to the estate of the said Charles M'Haffey, and has administered thereon; and that about thirty years since the said Margaret intermarried with a certain Timothy Keith, a foreigner, from the kingdom of Ireland; and that the said Keith absconded from Cumberland county, about twenty years since, and has never yet returned, which renders her unable to support herself, without making sale of the land aforesaid. And whereas the said Margaret cannot make sufficient title to any purchaser, on account of the desertion of her said husband, and being considered in law as in a state of coverture; therefore cannot sell to advantage, nor can she obtain a patent for said land, in her own name: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That the said Margaret Keith be, and she is hereby empowered to take out a patent for the said one hundred and ninety acres and a half of land, be the same more or less, she paying the purchase money, and the office fees for the same; and likewise shall have power to sell the same, or any part thereof, and make and execute a sufficient deed or deeds to the purchaser, or purchasers; which deed or deeds shall be as effectual and available in law, as if the said Charles M'Haffey had done the same in his lifetime, any law, usage or custom to the contrary notwithstanding.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 495.

CHAPTER MMCDLXXII.

AN ACT TO REGULATE THE ADMINISTERING OF CERTAIN OATHS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That when either branch of the legislature shall have made choice of a speaker, the oaths or affirmations prescribed in the constitution of this commonwealth, and the constitution of the United States, shall be administered to the speaker elect, by a member appointed for that purpose, by a majority of the members present, and the speaker so sworn or affirmed, shall administer the oaths or affirmations to the members elect and officers respectively.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when the senate shall sit for the purpose of trying any impeachment, the speaker shall be sworn or affirmed by a member selected by the senate for that purpose, by a majority of the members present. The speaker so qualified shall then administer the oath or affirmation to the members respectively, and the speaker of each house is hereby empowered to administer oaths or affirmations to witnesses or other persons whom it may be necessary to examine before the house whereof he is speaker; and the chair-

man of every committee shall have like powers in examinations before committees.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That when the governor elect is to be sworn into office, the necessary oaths or affirmations shall be administered to him by the speaker of the senate, or by the speaker of the house of representatives.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 496.

CHAPTER MMCDLXXIII.

AN ACT FOR THE RELIEF OF PETER KEPLINGER.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the sum of one hundred and fifty dollars be, and the same is hereby granted to Peter Keplinger, to be paid to him or his lawful attorney, immediately after the passing of this act, and an annuity of fifty dollars during his natural life, to be paid from the first day of January one thousand eight hundred and four, half yearly to him or his lawful attorney, not interested therein, on warrants drawn by the governor on the state treasurer, out of any unappropriated monies in the treasury.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 496.

CHAPTER MMCDLXXIV.

AN ACT TO AUTHORIZE THE SELECT AND COMMON COUNCILS OF THE CITY OF PHILADELPHIA TO ERECT MARKET HOUSES IN THE SAID CITY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first

day of November next, it shall and may be lawful for the select and common councils of the city of Philadelphia, to cause a market-house or market-houses to be erected, at such place or places within the said city, as to them may appear most conducive to the interest and convenience of the citizens thereof, and others who may have occasion to use the same, and to make such regulations for the well government of the said market as to them shall appear useful and necessary, and not inconsistent with the existing laws of this commonwealth: Provided, That one half of the buildings so erected, shall be and remain free for the use of the country people attending the said market, and that no fees, tolls or perquisites, shall be demanded or exacted from them for the use thereof.

Approved March 19, 1804. Recorded in L. B. No. 9, p. 497.

CHAPTER MMCDLXXV.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD, BY THE BEST AND NEAREST ROUTE, FROM THE NORTHEASTERN BRANCH OF THE SUSQUEHANNA RIVER, BETWEEN THE LOWER WHOPEHAWLY AND NESCOPECK CREEKS, IN LUZERNE COUNTY. TO THE NORTH SIDE OF NESQUEHONING CREEK, NEAR ITS ENTRANCE INTO THE RIVER LEHIGH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That William Tilghman, Benjamin Say, William Turnbull, Samuel Hodgdon, Thomas C. James, and Levi Hollingsworth, of the city of Philadelphia, general Thomas Craig, George Sevitz, and Peter Rhodes, jun. of Northampton county, Nathan Beech, of Luzerne county, Jacob Bittenbender, and John Brown, of Berwick, in Northumberland county, be, and they hereby are appointed commissioners, to do and perform the several things herein after mentioned; that is to say, They shall on or before the first Monday in June next, procure three books, and in each of them enter as follows: "We, whose names are hereunto subscribed, do

promise to pay to the president, managers and company of the Susquehanna and Lehigh turnpike road, the sum of one hundred dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers of the said company, in pursuance of an act of the general assembly of this commonwealth, entitled "An act to enable the governor of this commonwealth to incorporate a company for making an artificial road by the best and nearest route, from the northeastern branch of the Susquehanna river, between the lower Whopehawly, and Nescopeck creeks, in Luzerne county, to the north side of Nesquehoning creek, near its entrance into the river Lehigh."

Witness our hands the day of in the year of our Lord one thousand eight hundred and four, and shall thereupon give notice in two of the public papers printed in the city of Philadelphia, one of which to be in the German language, and in one or more of the public papers printed at Easton, Norristown, Northumberland and Wilkesbarre, respectively, for one calendar month at least, of the times and places when and where the said books shall be open, to receive subscriptions for the stock of the said company; at which respective times and places some two of the said commissioners shall attend, and shall permit and suffer all persons of lawful age who shall offer to subscribe in the said books, in their own name, or the names of any other persons who shall duly authorize the same, for any number of shares in the said stock, and the said books shall be kept open, respectively, for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until the said book opened at Philadelphia shall have one hundred and fifty shares therein subscribed; the said book opened at Allentown, fifty shares therein subscribed; and the said book opened at Berwick, fifty shares therein subscribed; and if at the expiration of the said six days, the books aforesaid, or any of them, shall not have the respective number of shares as aforesaid therein subscribed, the said commissioners respectively may adjourn from time to time, and transfer the said books from place to place

aforesaid, until the whole number of shares shall be subscribed; of which adjournments and transfer the commissioners aforesaid shall give such public notice as the occasion may require; and when the whole number of shares subscribed in all the said books, shall amount to two hundred and fifty, the same shall be closed: Provided always, that every person offering to subscribe in the said books, in his own name, or any other name, shall previously pay to the attending commissioners the sum of ten dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions, and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen, as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when fifty persons or more shall have subscribed one hundred shares of the said stock, the said commissioners shall certify, under their hands and seals, the names of the subscribers, and the number of shares subscribed by each, to the governor of this commonwealth, and thereupon it shall and may be lawful for the governor by letters patent under his hand and the seal of the state, to create and erect the subscribers, and if the said subscriptions be not full at the time, then also those who shall afterwards subscribe, to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The president, managers, and company of the Susquehanna and Lehigh turnpike road;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary, to fulfill the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, and of selling, transferring and conveying, in fee simple, or for any lesser estate, all such lands, tenements, hereditaments,

and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners aforesaid, as soon as conveniently may be after the said letters patent shall be sealed and obtained, shall give notice in two of the public papers in Philadelphia, one of which shall be in the German language, and also in the Easton, Norristown, Northumberland and Luzerne papers, respectively, of a time and place by them to be appointed, not less than twenty days from the publication of the first notice, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers, by ballot to be delivered in person or by proxy, duly authorized, one president and twelve managers, one treasurer, and such other officers as they shall think necessary, to conduct the business of the said company for one year, and until such officers shall be chosen; and shall and may make such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for the well ordering the affairs of the said company: Provided always, that no person shall have more than five votes at any election, or in determining any questions arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share by him held under the said number: Provided, nevertheless, that all future annual elections of the said corporation, shall be held with such notice, and in manner and form aforesaid, at such places, as the managers aforesaid shall direct and appoint.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday of January in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the

managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first to be chosen as aforesaid, shall procure certificates, to be written or printed, for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, he paying to the treasurer in part of the sum due thereupon, the sum of fifteen dollars for each share; which certificate shall be transferable at his pleasure, in person or by attorney, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for the purpose, shall be a member of said corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places, and be convened in such manner as shall be agreed on for transacting their business; at which meeting seven members shall form a quorum, who in the absence of the president may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with, and appoint all such surveyors, superintendents, artists and officers as they shall judge necessary, to carry on the intended works, and to fix their salaries or wages; to ascertain the times, manner and proportions when and in which the stockholders shall pay the

money due on their respective shares, in order to carry on the work; to draw orders on the treasurer for all monies necessary to pay the salaries or wages of persons by them employed, and for the labor done and materials provided in the prosecution of the work; which orders shall be entered or registered in their book of minutes, and shall be signed by the president, or in his absence by a majority of a quorum, and countersigned by their secretary, and generally to do all such other acts, matters and things, as by the by-laws, rules, orders and regulations of the company shall be committed to them.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder, whether original subscriber or assignee, after thirty days notice in two of the public papers in Philadelphia, one of which shall be in the German language, and also in the Easton, Norristown, Northumberland and Luzerne papers, respectively, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, shall neglect to pay such proportion at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month for every delay of such payment; and if the same and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sums before paid in part, and on account of such shares, the same may be forfeited by, and to the said company, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor, or in default of payment, by any stockholder, of any such instalment as aforesaid, the said president and managers may, at their election, cause suit to be brought in any court, having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid: Provided always, that the recovery in any such suit, shall in no case exceed the amount of such instalment or instalments, as may be due on such share, together with such accumulated penalty at the rate aforesaid, as shall equal the sums before paid on the

same share: And provided also, that no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable as aforesaid on the share or shares by him held at the time of such election, or general or special meetings of the said company, shall have been fully paid and discharged as aforesaid.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, their superintendents, surveyors, engineers, artists and chain-bearers, to enter into and upon all and every the lands, tenements and inclosures, in, through and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix such route, or track for the same road, as in the best of their judgment and skill will combine shortness of distance with the most practicable ground, from the said northeastern branch of the river Susquehanna, to the Nesquehoning creek, where the wooden bridge, near the mouth thereof, crosses the same.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, by and with their superintendents, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, wains and other carriages, and beasts of draught or burden, to enter upon the lands, in, over, contiguous and near to which the route and track of the said intended road shall pass, first giving notice of their intention to the owners or occupiers thereof, and doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree; or if they cannot agree, then upon an appraisement to be made upon oath or affirmation, by three

disinterested freeholders, any two of them agreeing, mutually to be chosen; or if the owners upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace, of either of the counties of Northampton or Luzerne, not interested therein, and upon tender of the appraised value, to cut down, dig, take and carry away any timber, stone, gravel, sand, earth or other material there being most conveniently situated for making or repairing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall have power to erect permanent bridges over the Nesquehoning creek, as well as over all the waters crossed by the said route or track whereon the same shall be found necessary, and shall cause a road to be laid out, not exceeding one hundred feet in width, from the northeastern branch of the Susquehanna aforesaid, to the Nesquehoning creek, where the wooden bridge, near the mouth thereof, crosses the same, and shall cause twenty feet thereof in breadth, at least, to be made an artificial road, which shall be bedded with wood, stone, gravel or other proper and convenient materials, well compacted together, a sufficient depth to secure a solid foundation for the same; and the said artificial road shall be faced with gravel, or stone pounded, or other small hard substance, in such manner as to secure a firm, and as nearly as the nature of the country and the materials will admit, an even surface, rising towards the middle by a gradual arch; and shall forever hereafter maintain and keep the same in perfect order and repair: Provided, that no toll be demanded or taken from any person passing or repassing, from one part of his or her farm to another, or to and from any place of public worship or funeral, on days appointed for that purpose.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers and company, shall have perfected the said road, from Nesquehoning creek, at the place aforesaid, any distance not less than fifteen miles, and so from time to time, any distance not less than five miles, progressively, towards

the point on the Susquehanna aforesaid, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three skillful and judicious persons to view and examine the same, and report to him whether the said road is so far executed, in a complete and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license under his hand and the lesser seal of the commonwealth, permit and suffer, the said president, managers and company, to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling on the same with horses, cattle and carriages.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said company, having perfected the said road, or such part thereof, from time to time as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they may think proper, to collect and receive of and from all and every person and persons using the said road, the tolls and rates herein after mentioned, and to stop any person riding, leading or driving any horse, or mule, or driving any cattle, hogs, sheep, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, from passing through the said gates or turnpikes, until they shall have respectively paid the same; that is to say, For every space of five miles in length of the said road, the following sums of money, and so in proportion for any greater or less distance, or for any greater or less number of hogs, sheep, or cattle, to wit: For every score of sheep, four cents; for every score of hogs, six cents; for every score of cattle, twelve cents; for every horse or mule, laden or unladen, with his rider or leader, three cents; for every sulky, chair, chaise, with one horse and two wheels, six cents; and with two horses, nine cents; for every chair, coach, phaeton, chaise, stage-wagon, coachee

or light wagon with two horses and four wheels, twelve cents; for either of the carriages last mentioned, with four horses, twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels, and of horses drawing the same; for every sleigh or sled, two cents for each horse drawing the same; for every cart or wagon, or other carriage of burden, the wheels of which do not in breadth exceed four inches, four cents for every horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, three cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, shall roll more than ten inches, two cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches, shall roll more than fifteen inches, one cent and a half for each horse drawing the same; and for any such carriage the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage as aforesaid, shall be drawn by oxen or mules in the whole, or in part, two oxen shall be estimated as equal to one horse, and every ass or mule as equal to one horse in charging the aforesaid tolls.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons owning, riding in, or driving any carriage of burden or pleasure as aforesaid, or owning, riding, leading or driving any horse, or mule, or driving any hogs, sheep or cattle as aforesaid, shall, with an intent to defraud the said company, or to evade the payment of any of the tolls or duties aforesaid, pass therewith through any private gate or bar, or along or over any private passage way, or along or over any other ground, or land, near to or adjoining any turnpike or gate, which shall be erected in pursuance of this act; or if any person or persons shall, with the intent aforesaid, take off, or

cause to be taken off, any horse or other beast or cattle of draught or burden, from any carriage of burden or pleasure, or shall practice any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending in manner aforesaid, shall, for every such offense respectively, forfeit and pay to the president, managers and company of the Susquehanna and Lehigh turnpike road, the sum of fifteen dollars to be sued for and recovered with costs of suit before any justice of the peace, in like manner and subject to the same rules and regulations as debts of equal amount are or may be by law recoverable.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof shall be given to any justice of the peace of the proper county, such justice shall issue a precept, to be directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road which is complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, and the said justice shall, at such time and place, by the oaths or affirmations of the said freeholders, enquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under the hands and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair, according to the true intent and meaning of this act, he shall so certify, and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates, for the intermediate distance between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and

repair as aforesaid; and if any of the keepers of the gates aforesaid shall take or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveler, during the time the road shall continue out of repair, such keeper shall forfeit and pay to the person who shall prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace, as debts of equal amount are or may be by law recoverable; but if the said road shall not be put into good and perfect order and repair, before the next ensuing court of quarter sessions of the proper county, the said justice shall certify and send a copy of the said inquisition to the justices of the said court; and the said court shall thereupon cause process to issue, and bring in the bodies of the person or persons entrusted by the company with the care and the superintendence of such part of the said road as shall be found defective as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest, against the person or persons entrusted as aforesaid, and upon conviction shall give such judgment, according to the nature and aggravation of the neglect, as the said court in their discretion shall judge proper: Provided, the fine in no instance shall be less than twenty dollars, nor exceeding one hundred dollars, and the fine so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said county, and shall be paid to the supervisors of the highways of the place wherein the offense was committed, to be applied to repairing such highways as the township or county is bound to repair at the public expense thereof.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all monies which shall be received by them from the said commissioners, and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all the penalties for the delay in the payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of their work, and shall once at

least in every year submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained, and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting, to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner and under the like penalties as are herein before provided for the original subscriptions, or as shall be provided by their by-laws.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers, and company shall also keep a just and true account of all and every the monies to be received by their several and respective collectors of tolls, at the several gates or turnpikes on the said road, which shall not exceed one for every five miles after the road is completed, from the beginning to the end thereof, or such part thereof as shall from time to time be completed as aforesaid; and after the said road shall be completed, or so much thereof as it may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved among all the subscribers to the stock of the said company, and shall on the first Monday in February and August in every year, publish the half yearly dividend to be made of the clear profits, among the stockholders, and of

the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall, at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the general assembly of this commonwealth, an abstract of their accounts, showing the whole amount of their capital expended in prosecution of the said work, and of the income and profits arising from the said tolls, for and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear and annual income and profits thereof may be ascertained and known; and if at the end of the two years after the said road shall be completed, from the beginning to the end thereof, it shall appear from the average profits thereof for the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall and may be lawful to and for the said president, managers and company to increase the tolls herein above allowed, in equal proportions upon each and every allowance thereof, so as to raise the dividends up to six per centum per annum; and at the end of every ten years after the said road shall be completed, they shall render to the general assembly a like abstract of their accounts for three preceding years; and if at the end of any such decennial period, it shall appear from such abstract, that the clear profits and income of the said company will bear a dividend of more than nine per centum per annum, then the said tolls shall be so reduced as to reduce the said dividend down to nine per centum per annum.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected at the intersection of every public road falling into and leading out of the said turnpike road, with boards and an index-hand pointing to the direction of

such road, on both sides whereof shall be inscribed in legible characters, the name of the town or place to which such road leads, and the distance thereof in measured or computed miles, and shall also cause mile-stones to be placed on the side of the said road, to designate the distances to and from the principal places thereon, and also shall cause to be fixed on the gates to be erected for the information of travellers and others using the said road, a printed list of the rates or tolls which from time to time may be lawfully demanded.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall wilfully break deface, pull up or prostrate any mile-stone which shall be placed, in pursuance of this act, on the side of the said road, or shall obliterate the letters or figures inscribed thereon, or shall wilfully break, pull down, deface, destroy or injure any direction-post, which shall be erected in pursuance of this act, at the intersection of any road as aforesaid, or the board or index-hand affixed thereto, in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface or obliterate the letters, figures or other characters marked at any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes herein mentioned, or the whole or any part of any printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike, he or they so offending in the premises, shall, and each of them shall, for every such offense, severally and respectively forfeit and pay to the said president, managers and company, the sum of twenty dollars, to be sued for and recovered with costs of suit, before any justice of the peace, in manner aforesaid.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That all wagoners, carters and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the said road free and clear

for other carriages to pass and repass; and if any wagoner, carter or driver, shall offend against this provision, he shall forfeit and pay any sum not exceeding six dollars, to any person who shall, by reason thereof, be obstructed in his passage, and will sue for the same, before any justice of the peace, to be recovered with costs in like manner aforesaid.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That if any toll-gatherer on the said road shall demand from any person or persons using the said road, any greater rate of toll than by this act is authorized and allowed, such toll-gatherer, shall forfeit and pay the sum of twenty dollars for every such offense, one half to the use of the supervisors of the roads or highways of the township in which the forfeiture shall be incurred, and the other half to the use of the person suing for the same, to be recovered before any justice of the peace of the county where such offense shall have been committed.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if in the case of any suit or prosecution which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice before whom such suit or prosecution shall be depending, or by action before the court of the common pleas of the proper county (if such prosecution had been instituted before the court of general quarter sessions of the peace) such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That no suit or action shall be brought or prosecuted by any person or persons for any penalties incurred under this act, unless such suit or action shall be commenced within six months next after the fact

committed, and the defendant or defendants in such suit or action, may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall not proceed to carry on the said work within three years after the passing of this act, or shall not within ten years thereafter, complete the said road, according to the true intent and meaning of this act, then, in either of those cases, it shall and may be lawful for the legislature of the commonwealth, to resume all and singular the rights, liberties, privileges and franchises by this act granted to the said company.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and thirty, think proper to take possession of the said road, three persons shall be appointed by the governor, and three by the president and managers of the said company, and three by the judges of the supreme court, who are hereby required to appoint the same, who or any six or more of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor of this commonwealth, who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be paid by the state to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.

CHAPTER MMCDLXXVI.

AN ACT FOR THE RELIEF OF THE SUPERVISORS OF SOMERSET TOWNSHIP, IN SOMERSET COUNTY, FOR THE YEAR ONE THOUSAND EIGHT HUNDRED AND ONE.

Whereas by the settlement of the accounts of the supervisors of the roads, in and for the township of Somerset, for the year one thousand eight hundred and one, by the freeholders for that purpose duly elected, the said township was indebted and in arrears to the said supervisors, for the opening and repairing the roads, and erecting sundry bridges, in a considerable sum of money, as will appear by the said settlement: And whereas by an act of assembly, passed the sixth day of April in the year one thousand eight hundred and two,⁽¹⁾ entitled "An act for laying out, making and keeping in repair the public roads and highways within this commonwealth," it is enacted, that previously to the collection of any monies from the inhabitants, for the repair of the roads, it shall be the duty of the supervisors of the current year, to call upon the inhabitants of the township, to attend upon the roads; and if they elect so to do, work out their respective taxes, by reason whereof no monies can come to the hands of the supervisors, if the said inhabitants elect to work out their taxes; and the said supervisors cannot receive compensation for work heretofore faithfully done upon the said roads: And whereas sundry necessary bridges, erected upon the said highways of Somerset county, are of that size and construction as to be ranked among those bridges which the different acts of assembly have contemplated as proper for county charge; but it is supposed that the said recited act of assembly, passed the sixth day of April one thousand eight hundred and two⁽¹⁾, does not extend to bridges erected before that time: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of the county of Somerset, with the approbation of the grand jury of the said county, be and they are hereby empowered to draw an order on the county treasurer for the sum of five hundred dollars to be paid to the supervisors of the highways of Somerset township, for the year one thousand eight hundred and one, to be applied to discharging the expenses of erecting certain necessary bridges in the said highways of Somerset township.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the supervisors of the highways for Somerset township, if they shall deem it expedient, be, and they are hereby authorized and empowered to assess and levy a sum sufficient to discharge the balance due the said supervisors for the year one thousand eight hundred and one, for opening, amending and keeping in repair the highways in Somerset township.

Approved March 26, 1804. Recorded in L. B. No. 9, p. 512.

Note (*) Chapter 2298. Supra this volume p. ?

CHAPTER MMCDLXXVII.

AN ACT TO INCORPORATE THE PHILADELPHIA INSURANCE COMPANY.

Whereas a number of persons having associated themselves for the purposes of effecting insurances and transacting other business connected therewith, under the name of the "Philadelphia insurance company," have applied to the legislature for an act of incorporation: And whereas it is conducive to the public benefit to encourage such institutions.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all those persons who have already subscribed and now are members of the association, styled and called the "Philadelphia Insurance Company," and

such persons as shall hereafter become stockholders therein, shall be and they are hereby created and declared to be one body politic and corporate in law, by the name and title of "The Philadelphia insurance company," and by the same name shall have perpetual succession, and shall be able to sue and be sued, plead and be impleaded, in all courts of record or elsewhere, and to purchase, receive, have, hold and enjoy to them and their successors, lands, tenements and hereditaments, goods and chattels, of what nature, kind or quality soever, real, personal or mixed, or choses in action, and the same from time to time to sell, grant, demise, alien or otherwise dispose of, and also to make and have a common seal, and the same to break, alter and renew at their pleasure, and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as to them shall appear necessary and convenient, for the government of the said corporation, not being contrary to the constitution thereof, or to the laws of United States, or of this state, and generally to do all and singular the matters and things which to them so incorporated it may or shall appertain to do: Provided, that the clear annual value of the lands, tenements and hereditaments by them held, shall not exceed the sum of ten thousand dollars.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That all the goods, chattels, monies, debts and other property, real, personal or mixed, now belonging or due and payable, or to become due and payable to, or held in trust for the said association, shall be, and the same are hereby respectively transferred to and vested in the said corporation hereby created, and the said corporation shall be, and they are hereby made liable to the payment of all monies due, or to become due from and to the performance of all contracts entered into by the said association.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the capital stock of the said company, shall be four hundred thousand dollars, which shall be divided into four thousand shares of one hundred dollars each. No corporation or body politic, except the said com-

pany, shall directly or individually have, hold or enjoy any share in the said capital stock.

Section IV. (Section IV, P. L.) And whereas it is represented, that one half of the said capital stock hath already been paid in by the subscribers to the said association, and that one instalment of twenty-five dollars on each share, will, by the terms of the said association, become payable on the fourth Monday in June next, and one other instalment of twenty-five dollars on the fourth Monday in December next: Therefore, be it further enacted by the authority aforesaid, that in case of failure in paying any of the said remaining instalments, for the space of twenty days after the same shall come due, every share on which failure shall take place, shall be forfeited to the said company, and shall, together with all the monies previously paid thereon, be disposed of as the directors for the time being shall think fit.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the affairs of the said company shall be conducted by thirteen directors; each of them at the time of his election, being and while in office continuing to be, a stockholder in the said company, to the amount of ten shares at least. They shall be chosen by ballot on the first Monday of January in each year, by a plurality of votes of the stockholders present, in person or by proxy, and shall serve for one year next ensuing their election, and until others shall be chosen. At their first meeting, after each election they shall choose one of their number to be president, and in case of the death, resignation or inability of the president, or any director, such vacancy shall be supplied by the board of directors till the next annual election; and if it shall happen that an election of directors is not held on any day, when by this act it ought to be held, the corporation shall not, for that cause, be dissolved; but it shall be lawful, on any other day, to hold and make an election of directors, in such manner as shall have been regulated by the laws and ordinances of the said corporation. Until the next annual election after the passing of this act, the persons who are now the president

and directors, chosen under the articles of association of the said company, shall continue to act in such capacity.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the directors for the time being shall have power to appoint such officers, clerks and servants as they shall deem necessary, and allow them such compensation as shall be reasonable. They shall have such other powers, not herein specified, as shall be ordered and directed by the by-laws and regulations of the said company. No director shall be entitled to any emolument unless the same shall have been allowed at a general meeting of the stockholders. A reasonable compensation to the president for his attendance and services shall be allowed by the stockholders.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That stated meetings of the directors shall be held at such times as may be appointed by the by-laws, or in default of such appointment by the directors themselves, and occasional meetings at such other times as the president shall think proper; at all which the president, if present, shall preside; in case of his absence, his place may be supplied by any other director, whom the board shall, for that purpose appoint; five of the directors, the president being one, shall form a quorum of the board of directors; but in the absence of the president a majority of the whole number shall be requisite to form a quorum; all questions at the board shall be decided by a plurality of votes; but no vote shall be reconsidered by a smaller number of directors than were present when such vote was passed.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the president shall have full power and authority, in the name and behalf of the company to make all kinds of marine insurances, insurances against fire, insurances on lives, and insurances on the inland transportation of goods, wares and merchandise, to lend money upon bottomry and respondentia, and generally to transact and perform all the business relating to the objects aforesaid, subject to such regulations as the stockhold-

ers shall make, and conformably to the orders and instructions of the board of directors.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the directors shall invest so much of the capital stock as shall not be from time to time necessary to be provided and reserved, for the purpose of discharging the demands against the said company, in the public debt of the United States, in bank stock, or in the stock of any other company that now is or hereafter may be incorporated by the state of Pennsylvania, or the United States, in bonds secured by mortgages, on sufficient real estates, or in bills of exchange, and from time to time, as occasion may require, call in and reinvest such monies.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the directors shall, on the first Monday in December, and the first Monday in June, in each year, declare a dividend of so much of the profits of the company as to them shall appear advisable, and the dividend so declared shall be paid to the respective stockholders or their representatives, ten days after the same shall be declared; but the monies received as premiums on risks, which shall be undetermined and outstanding at the time of declaring such dividend, shall not be considered as part of the profits of the company; and in case of any loss or losses, whereby the capital stock of the company shall be lessened, no subsequent dividend shall be made, until a sum equal to such diminution shall have been added to the capital. If the president and directors shall knowingly make any dividend or dividends contrary hereto, such of them as consent thereto, shall, in their individual capacities, be accountable for and pay to the company as much money as they may so divide and pay, more than by this section they are authorized to do.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the stock of the company shall be assignable and transferable, according to such rules as the board of directors shall establish; but no stockholder indebted to the company shall be permitted to make a trans-

fer, or receive a dividend, till such debt is discharged, or security to the satisfaction of the directors given for the same.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That a general meeting of the stockholders shall be held at the company's office on the second Monday in December in every year, and at such meeting the directors shall lay before the stockholders a statement of the affairs of the company, and all such further information, books, papers and other documents, as a majority of the stockholders so assembled shall require. The stockholders shall have power at all general meetings, to make by-laws, rules and regulations, for the government of the affairs of the company. A number of stockholders being together proprietors of not less than one thousand shares, shall have power at any time to call a general meeting, giving at least two weeks notice in two of the newspapers printed in the city of Philadelphia, and specifying in such notice the objects of such meeting.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the stockholders shall be entitled on all questions coming before them, and at every election for directors, to one vote for every three shares by them respectively held, but no stockholder shall be entitled to more than twenty votes in his own right, nor shall any stockholder vote at any election for directors, unless the stock shall have stood in his own name on the books of the company, at least three months preceding the time of such election. All stockholders may vote at elections, and on any question touching the business of the company, by proxy, provided the proxy be derived immediately from such stockholder, the written evidence thereof be deposited with the directors at the time of giving such vote, and the vote be given by a citizen of the state of Pennsylvania.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That any member of the said company may be assured thereby on any vessel, goods, wares, merchandise, house or life, in the same manner and with the

like effect, as if the said member had no interest in the company.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue in force until the first day of January, which will be in the year of our Lord one thousand eight hundred and fifteen: Provided always, That for liquidation and discharge of all transactions and accounts of the said company, the corporate powers thereof shall be, and continue in force; and that when such dissolution shall take place, a sum sufficient to answer all the outstanding risks and engagements of the company, shall be deposited in one of the incorporated banks of this state, or invested in the stock of such bank, or other funds, yielding dividends or producing interest; the product whereof shall, together with so much of the principal as may be gradually disengaged by the termination of such risks and engagements, from time to time, be divided amongst the stockholders or their representatives.

Approved March 26, 1804. Recorded in L. B. No. 9, p. 513.

CHAPTER MMCDLXXVIII.

AN ACT TO ERECT PARTS OF LYCOMING, HUNTINGDON AND SOMERSET COUNTIES INTO SEPARATE COUNTY DISTRICTS.

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That part of the county of Lycoming, included within the following lines, to wit: Beginning at the northeast corner of Venango county, and thence east thirty miles (part along the line of Warren county) and thence by a due south line fifteen miles, thence a southwesterly course of Sandy-lick creek, where Hunter's district line crosses said creek; thence south along Hunter's district line to a point twelve miles north of the canoe place, on the west branch of Susquehanna; thence a due west line until it inter-

sects the eastern boundary of Armstrong county; thence north along the line of Armstrong and Venango counties, to the place of beginning, be, and the same is hereby erected into a separate county, to be henceforth called Jefferson county, and the place of holding the courts of justice shall be fixed by the legislature at any place at a distance not greater than seven miles from the centre of the said county, which may be most beneficial and convenient for the said county.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That so much of the county of Lycoming, included in the following boundaries, to wit: Beginning at the southeast corner of Warren county; thence east along the line of Jefferson county to the northeast corner thereof; thence south along the line of Jefferson county fifteen miles; thence east twenty-two miles; thence north to the state line; thence west along the said state line to the northeast corner of Warren county; thence south along the line of Warren county to the place of beginning, be, and the same is hereby erected into a separate county, to be henceforth called M'Kean county, and the place of holding the courts of justice in and for the county, shall be fixed by the legislature at a distance not greater than seven miles from the centre of said county, which may be most beneficial and convenient for the said county.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That so much of the county of Lycoming, included in the following boundaries, to wit: Beginning where the line dividing Cannon's and Brodhead's district strikes the west branch of Susquehanna river; thence north along the said district line until a due west course from thence will strike the southeast corner of M'Kean county; thence west along the southern boundary of M'Kean county to the line of Jefferson county; thence southwesterly along the line of Jefferson county, to where Hunter's district line crosses Sandy-lick creek; thence south along the district line to the canoe place on Susquehanna river; thence an easterly course to the southwesterly corner of Centre county, on the heads of Mushanon creek; thence down the Mushanon creek

the several courses thereof to its mouth; thence down the west branch of Susquehanna river to the place of beginning, be, and the same is hereby erected into a separate county, to be henceforth called Clearfield county, and the place of holding the courts of justice in and for said county, shall be fixed by the legislature at any place which may be most beneficial and convenient for the said county.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That so much of the county of Lycoming, included in the following boundaries, to wit: Beginning five miles north of the southeast corner of M'Kean county, thence east thirty miles to Brodhead's easterly district line; thence north along said district line to the state line; thence west along the state line to the north-east corner of M'Kean county; thence south along the line of M'Kean county to the place of beginning, be, and the same is hereby erected into a separate county, to be henceforth called Potter county, and the place of holding the courts of justice in and for said county shall be fixed by the legislature at any place at a distance not greater than seven miles from the centre of the said county, which may be most beneficial and convenient for the said county.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That so much of the county of Lycoming, included in the following boundaries, to wit: Beginning five miles north of the south-east corner of number four, on Brodhead's district line on the eastern boundary of said number four; thence due east until it strikes the main branch of Lycoming creek; thence up the said creek to the head thereof, near the Towandy beaver dams; thence to the head of said beaver dams, or until it intersects the boundary line between Luzerne and Lycoming counties; thence a straight line to the eighty mile stone on the state line; thence west along the state line to the north-east corner of Potter county; thence south along the line of the same to the place of beginning, be, and the same is hereby erected into a separate county, to be henceforth called Tioga county, and the place of holding courts of justice in and for said county, shall

be fixed by the legislature at any place at a distance not greater than seven miles from the centre of the county, which may be most beneficial and convenient for said county.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That so much of the counties of Huntingdon and Somerset, included in the following boundaries, to wit: Beginning at the Conemaugh river, at the south-east corner of Indiana county; thence a straight line to the canoe place on the west branch of Susquehanna; thence easterly along the line of Clearfield county to the south-westerly corner of Centre county, on the heads of Mushanon creek; thence southerly along the Allegheny mountain to Somerset and Bedford county lines; thence along the line of Somerset and Bedford counties about seventeen miles, until a due west course from thence will strike the main branch of Paint creek; thence down said creek the different courses thereof, till it empties into Stony creek; thence down Stony creek the different courses to the mouth of Mill creek; thence a due west line till it intersects the line of Somerset and Westmoreland counties; thence northerly along the said line to the place of beginning, be and the same is hereby erected into a separate county, to be henceforth called Cambria county; and the place of holding the courts of justice for said county shall be fixed by the legislature at any place not at a greater distance than seven miles from the center of said county, which may be most beneficial and convenient for said county.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the governor shall, as soon as convenient, appoint three commissioners to run and mark the boundary lines of the counties of Jefferson, Clearfield and Cambria, and shall appoint three other commissioners to run and mark the boundary lines of the counties of M'Kean, Potter and Tioga, according to the true intent and meaning of this act; and the said commissioners, or any two of them, shall have power to run the aforesaid lines, and shall have for their services, the sum of two dollars for every mile so run and marked, to be paid out of the treasury of this commonwealth.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That as soon as it shall appear by an enumeration of the taxable inhabitants within the counties of Jefferson, M'Kean, Clearfield, Potter, Tioga, and Cambria, that any of the said counties according to the ratio which shall then be established for apportioning the representation among the several counties of this commonwealth, shall be entitled to a separate representation, provision shall be made by law for apportioning the said representation, and enabling such county to be represented separately, and to hold the courts of justice at such place in the said county as is or may hereafter be fixed for holding the same by the legislature, and to choose their county officers, in like manner as in the other counties of this commonwealth.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the governor be, and he is hereby authorized and required to appoint three suitable persons for trustees, in each of the said counties, who shall receive proposals in writing from any person or persons, or any bodies corporate or politic, for the grant or conveyance of any lands within the said counties, respectively, and within the limits prescribed by this act for fixing the place of holding courts of justice in said counties respectively, or the transfer of any other property, or payment of money for the use of said counties, and transmit to the legislature from time to time a copy of the proposals so received, under their hands; and when the place of holding courts of justice in the said counties respectively, shall be fixed by the legislature; to take assurances in the law, for the lands and other valuable property, or money contained in any such proposals, which shall or may be accepted of.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That whenever any part of the boundary lines of any of the said counties shall be the boundary lines of the state, or of any counties heretofore known and established, such parts shall not be run by any of the commissioners appointed in pursuance of this act; and when any line shall be run and ascertained, and marked by any

of the commissioners, which shall be the dividing line between two counties, the said line shall not be run a second time; but the commissioners who shall first attend and perform the said service shall be entitled to the compensation therefor.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That for the present convenience of the inhabitants of said counties of Clearfield and M'Kean, and until an enumeration of the taxable inhabitants of said county shall be made, and it shall be otherwise directed by law, the said counties of Clearfield and M'Kean shall be, and the same are hereby annexed to the county of Centre, and the authority of the judges thereof shall extend over, and shall operate and be effectual within said counties of Clearfield and M'Kean.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That for the present convenience of the inhabitants of the said counties of Potter and Tioga, and until an enumeration of the taxable inhabitants of the said counties shall be made, and it shall be otherwise directed by law, the said counties of Potter and Tioga shall be, and the same are hereby annexed to the county of Lycoming, and the jurisdiction of the several courts of the county of Lycoming, and the authority of the judges thereof shall extend over, and shall operate and be effectual within the said counties of Potter and Tioga.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That for the present convenience of the inhabitants of the county of Jefferson, and until an enumeration of the taxable inhabitants of said county shall be made, and it shall be otherwise directed by law, the said county of Jefferson shall be, and the same is hereby annexed to the county of Westmoreland, and the jurisdiction of the several courts of the county of Westmoreland, and the authority of the judges thereof, shall extend over and shall operate and be effectual within the said county of Jefferson.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That for the present con-

venience of the inhabitants of the county of Cambria, and until an enumeration of the taxable inhabitants of the said county shall be made, and until it shall be otherwise directed by law, the said county of Cambria shall be and the same is hereby annexed to the county of Somerset, and the jurisdiction of the several courts of the county of Somerset, and the authority of the judges thereof shall extend over, and shall operate and be effectual, within the said county of Cambria.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the electors within the counties erected by this act, shall continue to elect at the same places and with the same counties as heretofore.⁽¹⁾

Approved March 26, 1804. Recorded in L. B. No. 9, p. 518.

Note (1) See for supplement: Chapter 2568 (Act March 14, 1805, P. L. 113) *Infra* this volume. p. and Chapter 2641. (Act February 3, 1806, P. L. 323); 18 Statutes at Large.

CHAPTER MMCDLXXIX.

AN ACT IN CONFIRMATION OF A PARTITION MADE OF CERTAIN LANDS IN LYCOMING COUNTY.

Whereas it hath been represented to the legislature that John Murray, junior, Jacob Shieffelin, Thomas Buckley, Effingham Embree, the minor children of Effingham Lawrence, deceased, the minor children of Samuel Bowne, deceased, all of the city or state of New York; Samuel W. Fisher, in his own right, and in trust for Isaac Wharton, Jesse Waln, Robert Waln, and James C. Fisher, citizens of Philadelphia, and Samuel Parker, of London, are seized as tenants in common in their demesne, as of fee, of and in a certain large tract of land, containing upon actual re-survey, one hundred and twelve thousand three hundred acres, and one hundred and fifteen perches, with the usual allowance of six per cent. for roads, situate in the last purchase of the Indians, on the waters of Pine creek, and fourth branch of Tioga, formerly in the county of Northumberland, now in the county of Lycoming, in this state, surveyed in pursuance of warrants issued by this commonwealth, of which they are desirous to

make partition, in order that they may be enabled to make sales of parts thereof to actual settlers, and safely go on with improvements already begun; that the minority of some of the holders, and the distant residence of many of them, render it difficult to effect such partition in the usual course of law; that at the request, and by virtue of the express agreement of such of them or their attorneys as are of full age, and of those who represent the interest of such of them as are under age, a just and satisfactory division of the said lands has been agreed on, which it appears, however, will not be conclusively binding in all its parts, without the sanction and authority of the legislature of the state where the lands are situate. And whereas it appears that William Ellis, of the township of Muncy, and county of Lycoming, surveyor, hath at the instance and request of the said John Murray, junior, Jacob Shieffelin, Thomas Buckley, Effingham Embree, the guardians of the minor children of Effingham Lawrence, deceased, the guardians of the minor children of Samuel W. Fisher, in his own right, and in trust for Isaac Wharton, Jesse Waln, Robert Waln, and James C. Fisher, citizens of Philadelphia, and Samuel Parker of London, by his attorneys in fact, made an allotment and division of the said tract of land among the several parties, having due regard to quantity and quality, with which the same parties acting in their own rights, and in behalf of those whom they respectively represent, are satisfied and content, and that the instrument so made is recorded in the office of the master of the rolls in this state, in commission book No. 2, page 211. And whereas to promote the settlement and improvement of vacant lands, to guard the right of orphans, and to prevent uncertainties and controversies relative to the titles of real estates, are at all times objects deserving legislative attention and aid:

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the said allotment and division of the said tract of land, made as represented in the

preamble of this act, by the said William Ellis, and recorded in the office of the master of the rolls of this state, in commission book, numbered two, page two hundred and eleven, shall be, and the same are hereby confirmed, established and made certain and stable forever, so that John Murray, junior, therein named, may and shall have and hold to him and his heirs, in severalty, forever, the purpart and share of the said tract of land, to him thereby allotted, in full of his part, share and proportion of the said large tract of land. And the said Jacob Shieffelin, therein named, may and shall have and hold to him, and his heirs, in severalty, forever, the purpart and share of the said tract of land, to him thereby allotted, in full of his part, share and proportion of the said large tract of land. And the said Thomas Buckley, therein named, may and shall have and hold to him and his heirs, in severalty, forever, the purpart and share of the said tract of land, to him thereby allotted, in full of his part, share and proportion of the said large tract of land. And the said minor children of Effingham Lawrence, deceased, therein named, may and shall have and hold to them, and their heirs, in severalty, forever, the purpart and share of the said tract of land, to them thereby allotted, in full of his part, share and proportion of the said large tract of land. And the said Effingham Embree, therein named, may and shall have and hold to him and his heirs, in severalty, forever, the purpart and share of the said tract of land, to him thereby allotted, in full of his part, share and proportion of the said large tract of land. And the said minor children of Samuel Bowne, deceased, therein named, may and shall have and hold to them and their heirs, in severalty, forever, the purpart and share of the said tract of land, to them thereby allotted, in full of their part, share and proportion of the said large tract of land. And the said Samuel W. Fisher, in his own right, and in trust for Isaac Wharton, Jesse Waln, Robert Waln, and James C. Fisher, and Samuel Parker, therein named, may and shall have and hold to them, and their heirs, in severalty, forever, the purpart and share of the said tract of land to them thereby allotted, in full of their part, share and proportion of the said large tract of land:

Provided always, and be it further enacted by the authority aforesaid, that nothing herein contained shall in any way impair or affect the right or title of any person or persons, body politic or corporate, in or to any part of the lands mentioned or intended to be mentioned herein; but that the right and title of all such other persons, if any, shall be and remain of the same force and effect as if this act had not been made.

Approved March 26, 1804. Recorded in L. B. No. 9, p. 523.

CHAPTER MMCDLXXX.

AN ACT TRANSFERRING THE POWERS OF THE TRUSTEES OF THE COUNTY OF ADAMS TO THE COMMISSIONERS OF SAID COUNTY, AND AUTHORIZING THEM TO LEVY A FURTHER SUM FOR COMPLETING THE PUBLIC BUILDINGS THEREIN.

Whereas it has been represented, by a petition to the legislature of this commonwealth, that the trustees appointed under the act, entitled, "A supplement to an act, entitled "An act erecting part of the county of York into a separate county,"⁽¹⁾ have proceeded according to the directions of said act, in purchasing lots and erecting thereon a court-house and prison, and having expended the monies which were appropriated by law for the aforesaid purposes, but not being sufficient to complete the same, have therefore prayed the legislature to pass an act, transferring the powers of said trustees to the county commissioners, and authorizing them to assess and levy such further sum, not exceeding four thousand dollars, as in their opinion may be thought necessary to complete said buildings, and also to build a wall around the prison yard: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the authority, powers and duties of the trustees of the county of Adams, shall cease, determine and end, and the commissioners of said county, or a majority of them shall

have power and authority, and are hereby authorized and directed, to complete the said court-house, prison and prison yard, to comply with the contracts heretofore legally made by the said trustees under the said recited act, and to make, do and execute any other act or thing necessary for completing the said court-house, prison and prison yard, with like powers and duties as were heretofore vested in the said trustees by virtue of the act aforesaid.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the trustees appointed under the act aforesaid, shall render a faithful and true account of the expenditure of all monies put into their hands, to the commissioners of the county of Adams, for inspection, adjustment and settlement, and shall pay over any monies which may remain in their hands, to the said commissioners; and as the sums heretofore subscribed, assessed and raised, are insufficient to complete the court-house, prison and prison yard, it shall and may be lawful for the commissioners of the said county, and they are hereby authorized and directed to assess, levy and collect such further sum or sums of money, not exceeding four thousand dollars, including all outstanding monies which remain uncollected, or now in the county treasury, as they or a majority of them may think expedient, to complete the public buildings aforesaid, in the same manner as county rates and levies, are directed to be levied and collected.

Approved March 26, 1804. Recorded in L. B. No. 9, p. 525

Note (?) Chapter 2097; 16 Statutes at Large, p 392.

CHAPTER MMCDXXXI.

AN ACT FOR THE RELIEF OF ELIZABETH FEBIGER.

Whereas by an act of assembly, passed the eleventh day of April one thousand seven hundred and ninety-three,⁽¹⁾ the sum of ten thousand pounds was granted to the Pennsylvania hospital, out of the fund arising from the loan-office of the twenty-sixth day of February one thousand seven hundred

and seventy-three, which the managers of that institution were authorized to collect. And whereas the said managers employed a certain Philip Reiley to collect the said monies, and Christian Febiger entered into a bond for the good behavior of the said Philip Reiley. And whereas the said Philip Reiley, after having collected several sums of money, converted the same to his own use and absconded. And whereas the said managers of the Pennsylvania hospital, have obtained judgment in the supreme court against Elizabeth Febiger, deceased, for the sum of five thousand three hundred and thirty-one dollars and thirty-six cents upon the said bond; and as it is suggested that a considerable part of the said sum of five thousand three hundred and thirty-one dollars and thirty-six cents, will be coming to the state as a balance collected from the said loan-office fund after satisfying the said grant to the Pennsylvania hospital; and it is suggested that sundry errors have arisen in the said accounts, to the prejudice of the said Elizabeth Febiger. And whereas it appears that the said Elizabeth Febiger, at an early period, and long before the said Reiley absconded, informed the said managers and the attorney-general, that she suspected Reiley of improper conduct, and requested that the said Reiley should be discharged from the further collection of the said monies, and the estate of Christian Febiger, relieved from the future responsibility of the said bond: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That execution upon the judgment obtained against Elizabeth Febiger, executrix of the last will and testament of Christian Febiger, deceased, in the supreme court, at the suit of the managers of the Pennsylvania hospital, so far as relates to the balance due the state, be suspended for the space of nine calendar months, and that the comptroller-general and register-general be, and they are hereby authorized and required, to adjust, settle and ascertain the balance due to the state, as well as to the said hospital, from the said Elizabeth Febiger, under the said

judgment, making abatement of one moiety of the interest found by the jury, on account of monies collected by Philip Reiley, but not paid to the said managers as required, and also making allowance to her in the said settlement, for any errors which the said officers shall find to have been made in calculation by the jury by whom the verdict was given in the supreme court aforesaid, and allowing to her such commission or compensation, on the monies collected by Philip Reiley, as they may judge just and reasonable, and also to settle and ascertain such accounts as have not been settled and adjusted, and which shall be exhibited against the state by the said executrix, and shall appear to have been paid and disbursed by Christian Febiger, late state-treasurer, as clerk-hire, under the directions of the act, entitled "An act granting relief to certain creditors of the state, and for repealing part of an act, entitled "An act for furnishing the quota of this state towards paying the annual interest of the debts of the United States, and for funding and paying the interest of the public debts of this state, passed the ninth of April one thousand seven hundred and ninety-one,"⁽²⁾ with interest thereon.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That so soon as the accounts shall have been settled and adjusted as aforesaid, report thereof shall be made to the prothonotary of the supreme court, and if satisfaction be made for the balance found for the managers of the said hospital, the same shall be entered in discharge of so much of the said judgment; and if the remainder so reported shall have been paid to the state-treasurer within one year from the time the said report shall have been made, satisfaction shall be entered in discharge of the remainder of the judgment, otherwise execution shall issue in the usual manner, and so soon as the monies shall be recovered, the sheriff shall pay to the managers and state-treasurer the respective balances, so as aforesaid found and reported.

Approved March 26, 1804. Recorded in L. B. No. 9, p. 527.

Note (1) Chapter 1693; 14 Statutes at Large p. 435.

Note (2) Chapter 1560; 14 Statutes at Large p. 76.

CHAPTER MMCDLXXXII.

AN ACT FOR THE RECOVERY OF DEBTS AND DEMANDS NOT EXCEEDING ONE HUNDRED DOLLARS, BEFORE A JUSTICE OF THE PEACE, AND FOR THE ELECTION, OF CONSTABLES, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the powers of the justices of the peace of the several counties of this state shall be extended to all cases of demands for damages on assumptions; also notes, book debts, accounts and promises, of whatever kind, except as is hereinafter excepted; and to demands of debts, bonds, penal and single bills, not exceeding the amount of one hundred dollars.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said justices are hereby respectively empowered and required, upon complaint being made to any of them touching any such demand as aforesaid, to issue a summons, if the party complained of be a freeholder, if not a warrant of arrest, directed to the constable of the township, ward or district where the defendant usually resides, or can be found, or to the next most convenient constable, commanding him to bring or cause the said defendant to appear before the said justice; if on a warrant of arrest, forthwith on the service of the same; but in case of a summons, then at a certain day therein to be expressed, not more than eight, nor less than five days after the date of the summons, of which day of hearing the plaintiff shall have notice at the time of granting the summons by the justice; and the service on the defendant shall be by producing the original summons to and informing him of the contents thereof, or by leaving a copy of it at his dwelling house, in

the presence of one or more of his family, or neighbors, at least four days before the time of hearing.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That if the parties appear before the justice, either in person or by responsible agents, the justice shall proceed to hear their proofs and allegations; and if the demand shall not exceed five dollars and thirty-three cents, shall give judgment as to right and justice may belong, which judgment shall be final; but if the demand or sum in controversy, shall be more than that sum, and shall not exceed one hundred dollars, and either party shall refuse to submit the determination of the cause to the justice, he shall in that case request them to choose referees, one, two or three each, and mutually to agree on a third, fifth or seventh man, all of whom shall be sworn or affirmed well and truly to try all matters in variance between the parties, and on having heard their proofs and allegations, they shall make out an award, under their hands and seals, or a majority of them, and transmit the same to such justice, who shall thereupon enter judgment for the sum awarded and costs, and shall allow each of the referees fifty cents per day for his services; which judgment, so obtained, and when not exceeding fifty-three dollars, shall be final and conclusive to both complainant and defendant, without further appeal. And it shall be the duty of the justice to notify, through a constable or any other fit person, each of the referees so chosen, of their appointment, and of the time and place fixed for a hearing; and if any person so chosen and notified as aforesaid, shall neglect or refuse to serve, he shall for every such neglect or refusal (unless prevented by sickness or any other unavoidable accident) forfeit and pay the sum of two dollars, for the use of the poor; and where there are no poor, to be paid to the supervisor of the roads, to be applied by him in repairing the streets, roads and public highways of the city, town or township in which such person or persons so refusing or neglecting, shall reside; which fine shall be recovered before such justice of the peace, on complaint of the party injured, as

other fines are by law recoverable: Provided, that an action be brought within thirty days after such neglect or refusal.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if either party or their agents shall refuse to refer as aforesaid, the justice may proceed to hear and examine their proofs and allegations, and thereupon give judgment publicly, as to him of right may appear to belong, either party having the right to appeal within twenty days after judgment being given, either by the justice alone, or on the award of referees, when such award shall exceed the sum of fifty-three dollars; and if the parties are dismissed before an appeal is made, the justice shall, at the instance of the appellant, notify through a constable the adverse party to appear before him on some day certain; and if the parties shall appear on the day appointed, it shall be in the power of the justice, with consent of the parties or their agents, to open his judgment and give them another hearing; but if they will not agree to such re-hearing, the party appellant shall be bound with surety, in the nature of special bail, whether the appellee shall appear or not; if the plaintiff, in a sum sufficient to cover all the costs which have or may accrue, and fifty cents per day for every day the appellee shall attend on such appeal; which the appellant shall be bound to pay, if the judgment of the justice shall be affirmed by the court, or if he shall recover less than the amount of the judgment of the justice: if the defendant is the appellant, he shall be bound with surety as aforesaid, in a sum sufficient to cover the sum in controversy, all the costs and daily pay aforesaid, which he shall be bound to pay, if the judgment of the justice shall be affirmed by the court, or if the plaintiff shall recover more than the amount of the judgment of the justice; which costs shall be taxed by the court: all which proceedings so had before the justice shall be entered at large by him in a docket or book to be kept by him for that purpose, in which he shall state the kind of evidence upon which the plaintiff's demand may be founded, whether upon bond, note, penal or single bill, book debt, damages on assumptions, or whatever it may be; and the whole

proceedings, in case of appeal, shall be certified to the prothonotary of the proper county, who shall enter the same on his docket, and the suit shall from thenceforth take grade with, and be subject to the same rules as other actions where the parties are considered to be in court, and the costs accrued before the justice shall attend the event of the suit.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the prothonotaries of the respective counties shall enter in their dockets transcripts of judgments obtained before justices of the peace of their proper county, without the agency of an attorney, for the fee of fifty cents; which transcripts the justice shall deliver to any person that may apply for the same; and which judgments, from the time of such entries on the prothonotaries docket, shall bind the real estate of defendants; but no execution shall issue on any such judgment, until after the expiration of the period at which execution would have been issued if the cause had been concluded before the justice; and no judgment, whether obtained before a justice, or in any court of record in this commonwealth, shall deprive any person of his or her right as a freeholder, longer or for any greater time than such judgment shall remain unsatisfied, any law, usage or custom to the contrary hereof notwithstanding.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the special bail directed to be taken by the justice, in case of an appeal, shall be conditioned for the appearance of the party so appealing, at the next court of common pleas, to prosecute his suit with effect, and on failure thereof that the bail will pay the debt and costs, if the appeal is made by the defendant, or the costs, if the appeal is made by the plaintiff, or that the bail will, on or before the first day of the next term after judgment shall be rendered against the prinipal, surrender him to the jail of the proper county; on which surrender being so made, the bail shall be exonerated, but not otherwise; and a certified copy of such recognizance by the justice of the peace, shall be sufficient authority for the special bail, or any person au-

thorized by him, to take the principal within this commonwealth, and to deliver him to the jail of the county wherein the proceedings were had, and the jailer and sheriff are hereby required to receive him, and keep such principal so surrendered, together with the bail-piece upon which the surrender was made, until he shall be discharged by law; and where no appeal shall be made from the justice, and the special bail do not surrender the body of the defendant to the jail of the county (for which he shall have the authority as above directed) on or before the return day of the scire facias issued by the justice against such bail, and cannot show sufficient cause why he should be exonerated, the justice shall, upon his neglect or refusal to pay the debt and costs, enter judgment and issue execution, without stay, against him for the same.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That in case the defendant does not appear upon summons on the day appointed, the justice may, on due proof by oath or affirmation of the service of the summons as aforementioned, proceed to give judgment by default, publicly, against such defendant, allowing twenty days as aforesaid for an appeal, before any further proceedings are had; and in case the plaintiff does not appear, either in person or by agent, to substantiate his charge, the justice may then, or at such further day as he may judge reasonable, proceed to give judgment against him by non-suit, for the costs of suit, and for the reasonable costs of the defendant, to be taxed agreeably to the provisions contained in the fourth section of this act.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That upon affidavit of either party or their agents, that the testimony of any material witness is wanted, who resides out of the county, or from his infirmity of body or other causes, cannot be obtained personally, the cause shall be postponed to a day certain, within such reasonable time as the distance of the witness, the season of the year, and the circumstances of the roads may render it convenient to obtain the deposition of the witness wanted;

and whenever a cause is postponed at the instance of the defendant, he shall enter into recognizance for a sum sufficient to cover the demand in question, together with the costs, with one sufficient surety for his appearance on the day fixed as aforesaid; and whenever a rule for taking the deposition of a witness or witnesses, shall be applied for as aforesaid, the party so applying shall file a copy of the interrogatories or questions intended to be asked the witnesses, and a copy of such interrogatories shall be delivered to the opposite party who may also file such additional questions as he may think proper: Provided, the same be done within four days after the receipt of such copy; which rule and interrogatories, being certified by the justice before whom the cause is depending, shall be a sufficient authority for the justice who may be named in said rule, to take the answers of such witnesses as may be also therein named; but where the witnesses reside in the county, or in cases where the parties or their agents agree to enter a rule to take depositions, it may be done without filing interrogatories, upon notice given (agreeably to the rule) of the time and place appointed for the examination of the witnesses; and testimony so taken shall be read in evidence on the trial, before the justice or referees.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That in all cases where the defendant is a freeholder, or shall enter special bail to the action, and the judgment rendered shall be above five dollars and thirty-three cents, and not exceeding twenty dollars, there shall be a stay of execution for three months, and where the judgment shall be above twenty dollars, and not exceeding sixty dollars, there shall be a stay of execution for six months, and where the judgment shall be above sixty, and not exceeding one hundred dollars, there shall be a stay of execution for nine months.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That every justice of the peace rendering judgment as aforesaid, shall receive the amount of the judgment, if offered by the defendant or his agent, before execution, and pay the same over to the plaintiff or his agent,

when required; for which service he shall, if exceeding five dollars and thirty-three cents, be allowed twenty-five cents by the defendant, in addition to his usual fees; and if the said justice shall neglect or refuse to pay over on demand the money so received, to the plaintiff or his agent, such neglect or refusal shall be construed and deemed a misdemeanor in office; and if the amount of the judgment is not paid to the justice as aforesaid, he shall grant execution thereupon, if for a sum not exceeding five dollars and thirty-three cents, forthwith, and for any further sum, after the time limited for the stay of the same; which execution shall be directed to the constable of the proper ward, district or township where the defendant resides, or to the next most convenient constable, commanding him to levy the debts or damages, and costs, of the defendant's goods, and chattels, and by virtue thereof shall, within the space of twenty days next following, expose the same to sale by public vendue, having given due notice of the same at least five days previously to the day of sale, by at least three advertisements put up at the most public places in his township, ward or district, and returning the overplus, if any, to the defendant; and for want of sufficient distress, to take the body of such defendant into custody, and him or her convey to the common jail of the county; and the sheriff or keeper of such jail is required to receive the person or persons so taken in execution, and him, her or them safely to keep until the sum recovered and interest thereon accrued, from the date of the judgment, together with costs, be fully paid; and in default of such keeping, to be liable to answer in damages to the party injured, as is by law provided in case of escapes, or in case no goods and chattels can be found, and the defendant be possessed of lands or tenements, the plaintiff may apply to the justice who pronounced the judgment, for a transcript of the same, and a certificate from the justice, that the same judgment is unsatisfied; and upon entering the same in the prothonotary's office, the plaintiff shall be entitled to his execution, directed to the sheriff of the county, and the like proceedings shall be had as in other cases, upon judgments obtained in court.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That on the delivery of an execution to any constable, an account shall be stated in the docket of the justice, and also on the back of the execution, of the debt, interests and cost, from which the said constable shall not be discharged, but by producing to the justice, on or before the return day of the execution, the receipt of the plaintiff, or such other return as may be sufficient in law; and in case of a false return, or in case he does not produce the plaintiff's receipt on the return day, or make such other return as may be deemed sufficient by the justice, he shall on application of the plaintiff or his agent, issue a summons, directed for service to any constable of the county, commanding the said constable to appear before him on such day as shall be mentioned in the said summons, not exceeding five days from the date thereof, and then and there show cause why an execution should not issue against him for the amount of the first above mentioned execution; and if the said constable either neglects to appear on the day mentioned in such summons, or does not show sufficient cause why the execution should not issue against him, then the justice shall enter judgment against such constable for the amount of the first above mentioned execution, together with costs; on which judgment there shall be no stay of execution; and upon application of the plaintiff or his agent, the said justice shall issue an execution against the constable for the amount of the first above mentioned execution, together with costs; on which judgment there shall be no stay of execution; and upon application of the plaintiff or his agent, the said justice shall issue an execution against the constable for the amount of such judgment; which execution may be directed to any constable of the county, whose duty it shall be to execute the same: Provided always, That nothing in this act contained shall in any manner impair or alter the proceedings as heretofore established with regard to insolvent debtors and their discharge, on a full surrender of their property.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the powers of the said

justices of the peace shall extend to all cases of rent not exceeding one hundred dollars, so far as to compel the landlord to defalcate or set off the just account of the tenant out of the same; but the landlord may waive further proceedings before the justice, and pursue the methods of distress in the usual manner, for the balance so settled; but if any landholder shall be convicted after such waiver, in any court of record, of distraining for and selling more than to the amount of such balance, and of detaining the surplus in his hands, he shall forfeit to the tenant four times the amount of the sum detained: Provided, that no appeal shall lie in the case of rent; but the remedy by replevin shall remain as heretofore.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That in all cases the party shall have the privilege of removing the cause by writ of certiorari, from before any justice, whose duty it shall be to certify the whole proceedings had before him, by sending the original precepts, a copy of the judgment, and execution or executions, if any, be issued: Provided always, that the proceedings of a justice of the peace shall not be set aside or reversed on certiorari for want of formality in the same, if it shall appear, on the face thereof, that a precept, issued in the name of the commonwealth of Pennsylvania, requiring the defendant to appear before the justice on some day certain, or directing the constable or other fit person to bring the defendant forthwith before him, agreeably to the provisions and directions contained in this act that judgment was rendered on the day fixed in the precept, or on some other day to which the cause was postponed by the justice, with the knowledge of the parties; and that the proceedings are otherwise intelligible; and that no execution issued by any justice, shall be set aside for informality, if it shall appear on the face of the same, that it was issued in the name of the commonwealth of Pennsylvania, after the expiration of the proper period of time, and for the sum for which judgment had been rendered, together with interest thereon and costs, and a day mentioned on which return is to be made by the constable, and that the

cause of action shall have been cognizable before a justice of the peace.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whosoever shall commence, sue or prosecute any suit or suits, for any debt or debts, demand or demands, made cognizable as aforesaid, in any other manner than is directed by this act, and shall obtain a verdict or judgment therein, which, without costs of suit, shall not amount to more than one hundred dollars, not having caused an oath or affirmation to be made before the obtaining of the writ of summons, or *capias*, and filed the same in the prothonotary's office, respectively, that he, she or they so making oath or affirmation, did truly believe the debt due or damage sustained exceeded the sum of one hundred dollars, he she or they so prosecuting, shall not recover costs in such suit, any law, usage or custom to the contrary notwithstanding.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That nothing in this act contained shall be construed or understood to extend to actions of ejectment brought to obtain possession of lands and tenements, actions of replevin, actions on real contract for the sale or conveyance of lands and tenements, or actions upon promise of marriage.

Section XVI. (Section XVI, P. L.) And whereas doubts have been entertained with respect to the mode of recovering the forfeitures and penalties prescribed by the following acts, passed in the year one thousand seven hundred, to wit: "An act against forcible entry;"⁽¹⁾ "An act against removing land marks;"⁽²⁾ and "An act against defacers of charters;"⁽³⁾ Therefore be it enacted by the authority aforesaid, that in all cases arising under the said acts, where the penalty is fixed, and the court not mentioned in which such penalties shall be recoverable, the same shall be prosecuted in the court of quarter sessions of the county where the offense is committed, and warrants shall and may be issued by the justices of the peace, respectively, to oblige the offender or offenders to find surety for his, her, or their appearance at the said court,

and to be of good behavior in the meantime, if necessary; and in default of such surety, to commit him, her or them to the jail of such county, to be dealt with according to law.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the electors of each county town, township or district which now is, or hereafter shall be in any of the counties within this commonwealth, shall annually on the same day, and at the same place where they meet to choose the supervisors of the highways, elect two reputable citizens in said town, township or district, and return the names of the persons so elected, to the next court of quarter sessions of the proper county, and the said court shall appoint one of them to be constable for the town, township or district for which he was chosen for one year, from and after the time of his appointment, if it should appear to the satisfaction of the court, that he possesses a freehold estate in his own right, clear of all incumbrances, of the value of one thousand dollars; or if he does not possess a freehold estate, as aforesaid, he may be appointed, if he is ready to become bound, in an obligation to that amount, with at least one sufficient security, to be approved of by the court of quarter sessions, to be taken in the name of the commonwealth by the clerk of the said court; for which service he shall receive the fee of twenty-five cents, for the just and faithful discharge of his said office; which said obligation shall be held in trust for the use and benefit of all persons who may sustain injury from him in his official capacity, by reason of neglect of duty, and for the like purposes and uses as sheriffs bonds are usually given; but if he does not possess a freehold estate as aforesaid, or enter the security as above required, or possessing a freehold as aforesaid, refuses to take upon himself the office of constable; or if the electors in any town, township or district, shall neglect or refuse to return two citizens for the said office as aforesaid, then and in either such case the court may and shall appoint another proper person, possessing a freehold estate of the value aforesaid, to serve as constable. And every person elected or appointed, or who shall be appointed by the court, and who may possess a freehold estate of the value

above mentioned, and shall refuse or neglect to take upon himself the office of constable, or shall not procure a deputy to undertake the duties of the said office, for whose conduct in the same he shall be responsible, shall be fined by the court in the sum of forty dollars: Provided nevertheless, that no person shall be permitted to serve as constable more than three years, in any term of six years, except in the township of Moyamensing and Passyunk, and also that no person shall be compelled to serve as constable more than once in every fifteen years, in the same town, township or district, excepting in the township of Tinicum, in the county of Delaware, and that procuring a deputy to discharge the duties of the said office, or paying the penalty as aforesaid, shall be considered equal to personal service: Provided, that nothing contained in this act shall be so construed as to interfere with any laws now in force, respecting the city of Philadelphia, the township of the Northern Liberties, and district of Southwark, or the township of Germantown, relating to the election of constables: And provided also, that the security to be given under the acts now in force for the appointment and regulations of constables in the township of the Northern Liberties, and the district of Southwark, and the township of Germantown, be and the same is hereby increased to one thousand dollars, any law to the contrary notwithstanding.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That each and every of the constables who may be hereafter chosen, in the several wards of the city of Philadelphia, who are not freeholders in their own right to the value of one thousand dollars, shall, before they enter on the duties of the said office, be bound in an obligation to the mayor of the said city, with at least two sureties, who are freeholders, and who shall be approved by the mayor's court, jointly and severally in the sum of one thousand dollars, for the just and faithful discharge of the said office; the fee for which shall not exceed twenty-five cents, in trust for the use and benefit of all and every person and persons who may be injured or aggrieved by the neglect

or improper conduct of such constable, in the execution of the duties of the said office; and if any of the said constables so chosen, shall refuse to serve in the said office, those so refusing shall be subject to a like penalty as is specified in the seventeenth section of this act; and the said constables upon taking any goods, wares or merchandise, in execution, shall in due time deliver all such goods, wares or merchandise, to such one of the auctioneers appointed in the said city, as the alderman issuing the execution may direct, who shall advertise and sell the said goods for the best price he can obtain, and pay the amount of the sales unto the said constable, first deducting the usual duty for such sales; but shall make no deduction of any duty on behalf of this commonwealth; and the constable shall pay the money forthwith to the alderman issuing the execution; and the said alderman on receiving the said monies, shall pay the same upon demand unto the plaintiff, or his agent, retaining the fee allowed by this act, and under the penalty that justices of the peace are subjected to in like circumstances by this act.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the like jurisdictions, powers and authorities vested by this act, in the justices of the peace within this commonwealth, shall be and are hereby vested in each and every of the aldermen appointed within the city of Philadelphia, who shall in all cases exercise all such powers within the said city, which any justice of the peace may exercise within any county in this state, and shall be entitled to like fees, and in all cases shall be under and subject to such limitations, restrictions and provisions as justices of the peace are in like circumstances subjected to by this act; and whenever the functions of the said alderman's court ceases, the books of record of the said court shall be deposited in the office of the prothonotary of the city and county of Philadelphia; to which records any person having occasion shall have access at all seasonable hours, paying the usual fee.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That an act, entitled "An act for better determining debts and demands under forty

shillings and for laying aside the two weeks court in the city of Philadelphia, passed May twenty-eight, one thousand seven hundred and fifteen,"⁽⁴⁾ and an act, entitled "An act for the more easy and speedy recovery of small debts, passed March first one thousand seven hundred and forty-five,"⁽⁵⁾ and an act, entitled "An act to enlarge the summary jurisdiction of the justices of the peace, in actions of debt on demand, to sums not exceeding ten pounds, "and to repeal an act, entitled "A supplement to an act for the more easy and speedy recovery of small debts, passed April fifth one thousand seven hundred and eighty-five, and an act, entitled "An act to extend the powers of the justices of the peace in this state, passed April nineteenth one thousand seven hundred and ninety-four,"⁽⁷⁾ and an act entitled "An act to continue in force for a limited time an act, entitled "An act to extend the powers of the justices of the peace in this state, and for other purposes therein mentioned," passed April fourth, one thousand seven hundred and ninety-eight,"⁽⁸⁾ and so much of the act, entitled "An act to incorporate the city of Philadelphia," passed the eleventh day of March, one thousand seven hundred and eighty-nine,"⁽⁹⁾ as establishes the alderman's court in the said city, or of any other act or acts as recognizes, regulates or extends the powers or jurisdictions of said court, be and the same are hereby repealed: Provided nevertheless, that the repeal aforesaid shall not discontinue, stay or affect any suit or actions now depending, or which shall be commenced before the first day of June next, under the acts which are hereby repealed; but the same acts shall continue and be in force for the purpose of attaining the full effect and purpose of every such suit or action.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue

in force for the term of three years, and from thence to the end of the next sitting of the general assembly and no longer.

Recorded in L. B. No. 9, p. 528.

Note (1) Chapter 11; 2 Statutes at Large p. 12.

Note (2) Chapter 15; 2 Statutes at Large p. 15.

Note (3) Chapter 16; 2 Statutes at Large p. 16.

Note (4) Chapter 211; 3 Statutes at Large p. 63.

Note (5) Chapter 365; 5 Statutes at Large p. 22.

Note (6) Chapter 1160; 11 Statutes at Large p. 573.

Note (7) Chapter 1754; 15 Statutes at Large p. 98.

Note (8) Chapter 1995; 16 Statutes at Large p. 93.

Note (9) Chapter 1394; 13 Statutes at Large p. 193.

In the House of Representatives.

March 28th, 1804.

Mr. Thompson, the secretary of the commonwealth, being introduced, presented to the chair a message from the Governor, which was read as follows, to wit:

To the Senate and House of Representatives of the Commonwealth of Pennsylvania.

Gentlemen: The bill, entitled "An act for the recovery of debts and demands not exceeding one hundred dollars, before a justice of the peace, and for the election of constables, and for other purposes," was presented to me on Thursday the fifteenth instant, and as it has not been returned by me within ten days, (Sundays excepted) since I received it, this bill is now become a law, in like manner as if I had signed it. I have directed the secretary to return it to the House of Representatives, in which it originated.

THOMAS M'KEAN.

Lancaster, March 28th, 1804.

Extract from the journal.

MATTHEW HUSTON,

Clerk of the House of Representatives.

In Senate.

March 28th, 1804.

Mr. Thompson, the secretary of the commonwealth, being introduced, presented to the chair a message from the Governor, which was read as follows, to wit:

To the Senate and House of Representatives of the Commonwealth of Pennsylvania.

Gentlemen: The bill, entitled "An act for the recovery of debts and demands not exceeding one hundred dollars, before a justice of the peace, and for the election of constables, and for other purposes, was presented to me on Thursday the 15th instant, and as it has not been returned by me within ten days, (Sundays excepted) since I received it, this bill is now become a law, in like manner as if I had signed it; I have directed the secretary to return it to the House of Representatives, in which it originated.

(Signed)

THOMAS M'KEAN.

Lancaster, March 28th, 1804.

Extract from the journal.

GEO. BRYAN, C. S.

CHAPTER MMCDLXXXIII.

AN ACT AUTHORIZING THE GOVERNOR TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD IN WAYNE AND LUZERNE COUNTIES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Henry Drinker, Edward Tilghman, Thomas Harrison, and William Poyntell, of the city of Philadelphia; John Conklin, Jason Torry and Samuel Stanton, of Wayne county, and Asuhel Gregory, John Tyler and Menna Dubois, of the county of Luzerne, be, and they are hereby appointed commissioners, to do and perform the several things hereinafter mentioned; that is to say, They shall on or before the first day of July next, procure three books, and in each of them enter as follows: We, whose names are hereto subscribed, do promise to pay the president, managers and company of the Coshecton and Grand Bend turnpike road, the sum of fifty dollars for every share of stock in the said company set opposite to our respective names, in such man-

ner and proportions, and at such times as shall be determined by the president and managers of the said company, in pursuance of an act of the general assembly of this commonwealth, entitled "An act authorizing the governor to incorporate a company for making an artificial road in Wayne and Luzerne counties." Witness our hands the day of

in the year of our Lord one thousand eight hundred and ; and shall thereupon give notice in two of the public papers printed nearest the route of said road, for one calendar month at least, of the times and places in the said city and counties respectively, when and where the said books shall be open to receive subscriptions for the stock of the said company; at which respective times and places some two of the said commissioners shall attend, and shall permit and suffer all persons of lawful age, who shall offer to subscribe in the said books in their own names, or in the name or names of any other person who shall duly authorize the same, for any number of shares in the said stock; and the said books shall be kept open respectively, for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until the said book opened at Philadelphia shall have four hundred shares therein subscribed, the said book opened at Coshecton three hundred shares therein subscribed; and the said book opened at Great Bend of Susquehanna, three hundred shares therein subscribed; and if at the expiration of the said six days, the books aforesaid, or any of them, shall not have the respective number of shares as aforesaid therein subscribed, the said commissioners respectively may adjourn from time to time, and transfer the said books from place to place aforesaid, until the whole number of shares shall be subscribed; of which adjournments and transfers the commissioners aforesaid shall give such public notice as the occasion may require; and when the whole number of shares subscribed in all the said books, shall amount to one thousand, the same shall be closed: Provided always, that every person offering to subscribe in the said books, in his own name, or any other name, shall previously pay to the attending commissioners the sum of ten

dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized and the officers chosen as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when fifty persons or more shall have subscribed five hundred or more shares of the said stock, the said commissioners, respectively, may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals the names of the subscribers, and the number of shares subscribed by each, to the governor of this commonwealth, and thereupon it shall and may be lawful for the governor, by letters patent under his hand and the seal of the state, to create and erect the subscribers, and if the said subscriptions be not full at the time, then those who shall afterwards subscribe, to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The president, managers and company of the Coshecton and Great Bend turnpike road;" and by the said name the said subscribers shall have perpetual succession and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary, to fulfill the intent of this act, and of purchasing, taking and holding to them and their successors, and assigns, and of selling, transferring and conveying, in fee simple, or for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their work, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners aforesaid,

as soon as conveniently may be after the said letters patent shall be sealed and obtained, shall give notice in two of the public papers in Philadelphia, and in one or more of the public papers printed nearest the route of said road, of a time and place by them to be appointed, not less than twenty days from the publication of the first notice, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers, by ballot to be delivered in person or by proxy, duly authorized, one president, twelve managers, one treasurer and such other officers as they shall think necessary, and until other such officers shall be chosen, and shall and may make such by-laws, rules, orders and regulations not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for the well-ordering the affairs of the said company: Provided always, that no person shall have more than ten votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share by him held under the said number: Provided nevertheless, that all future annual elections of the said corporation shall be held with such notice, and in manner and form aforesaid, alternately, at Coshecton and the Great Bend of Susquehanna.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday of January in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such other officers as aforesaid for the ensuing year in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers

first to be chosen as aforesaid, shall procure certificates, to be written or printed, for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, he paying to the treasurer in part of the sum due thereupon, the sum of fifteen dollars for each share; which certificate shall be transferable at his pleasure, in person or by attorney, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for the purpose, shall be a member of the corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places, and be convened in such manner as shall be agreed on for transacting their business; at which meeting seven members shall form a quorum, who in the absence of the president may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with and appoint all such surveyors, superintendents, artists and officers as they shall judge necessary, to carry on the intended works, and to fix their salaries or wages; to ascertain the times, manner and proportions, when and in which the stockholders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer for all monies necessary to pay the salaries or wages of persons by them employed, and for the labor performed and the materials provided in the prosecution of the work; which orders shall be entered or registered in their book of minutes, and shall be signed by the president, or in his absence by a majority of a quorum, and counter-

signed by the secretary, and generally to do all such other acts, matters and things, as by the by-laws, rules, orders and regulations of the company shall be committed to them.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder, whether original or assignee, after thirty days notice in two of the public papers printed in the city of Philadelphia, and in one or more of the public papers printed nearest the route of said road, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, shall neglect to pay such proportion at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month for every delay of such payment; and if the same and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sums before paid in part, and on account of such share, the same may be forfeited by and to the said company, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor, or in default of payment by any stockholder, of any such instalment as aforesaid, for the space of sixty days as aforesaid, the said president and managers may at their election cause suit to be brought before a justice of the peace, or in any court having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid; which suit may be brought as well against the original subscriber, of any such share whereon default shall be made as aforesaid, as against each and every successive assignee thereof, who are hereby severally made liable for payment of the same: Provided always, that the recovery in any such suit shall in no case exceed the amount of such instalment or instalments as may be due on such share, together with such accumulated penalty at the rate aforesaid, as shall equal the sums before paid on the same share: And provided also, that no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any gen

eral or special meeting of the said company, unless the whole sum due and payable as aforesaid, on the share or shares by him held at the time of such election, or general or special meeting of the said company, shall have been fully paid and discharged as aforesaid.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be lawful to and for the said president and managers, their superintendents, surveyors, engineers, artists and chain-bearers, to enter into and upon all and every the lands, tenements and inclosures, in, through and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix such route or track for the same road, as in the best of their judgment and skill will combine shortness of distance with the most practicable ground from Damascus mills, at Coshecton, on the Delaware river; through the gap of Moosick mountain, to or near the twenty mile-stone in the north line of the state, in the Great Bend of Susquehannah aforesaid.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, by and with their superintendents, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, wains and other carriages, and beasts of draught or burden, to enter upon the lands in, over, contiguous and near to which the route and track of the said intended road shall pass, first giving notice of their intention to the owners or occupiers thereof, and doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree; or if they cannot agree, then upon an appraisement to be made upon oath or affirmation, by three disinterested freeholders, or any two of them agreeing, mutually

to be chosen; or if the owners upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of either of the counties of Wayne or Luzerne, not interested therein; and upon tender of the appraised value, to cut down, dig, take and carry away any timber, stone, gravel, sand, earth, or other materials there being most conveniently situated for making or repairing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company shall have power to erect permanent bridges over all the waters crossing the said route or track, wherever the same shall be found necessary, and shall cause a road to be laid out, not exceeding one hundred feet in width, from Damascus mills aforesaid, to the Gap of the Moosick mountain aforesaid, and from the Gap of Moosick mountain to or near the twenty mile stone in the north line of the state aforesaid, unless in such places where the nature of the ground may render a greater width expedient, and then only with the consent of the owners of the contiguous land, and shall cause twenty feet thereof in breadth at least to be made an artificial road, which shall be bedded with wood, stone, earth, gravel or other proper materials, well compacted together, a sufficient depth to secure a solid foundation for the same; and the said artificial road shall be faced with gravel or stone, pounded, or other small hard substance, in such manner as to secure a firm, and as nearly as the nature of the country and the materials will admit, an even surface, rising towards the middle by a gradual arch; and shall forever hereafter maintain, and keep the same in perfect order and repair.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers and company, shall have perfected the said road from Damascus mills, on Delaware river aforesaid, for the distance of ten miles, and so from time to time any distance not less than ten miles progressively, towards the Great Bend of Susquehanna aforesaid, they shall give notice thereof to the governor of this commonwealth, who shall thereupon

forthwith nominate and appoint three skillful and judicious persons to view and examine the same, and report to him whether the road is so far executed, in a complete and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers and company, to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling on the same, with horses, cattle and carriages.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said company having perfected the said road, or such part thereof, from time to time as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person or persons using the said road the tolls and rates hereinafter mentioned, and to stop any person riding, leading or driving any horse, cattle, hogs, sheep, sulky, chair chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure from passing through the said gates or turnpikes, until they shall respectively have paid the same, that is to say: For every space of five miles in length of the said road, from Damascus mills aforesaid, to the Great Bend of Susquehanna aforesaid, and in proportion for any greater or lesser distance, or for any greater or lesser number of sheep, hogs or cattle, to wit: For every score of sheep, six cents; for every score of hogs, six cents; for every score of cattle, twelve cents; for every horse or mule, laden or unladen, with his rider or leader, three cents; for every sulky, chair, chaise, with one horse and two wheels, six cents; and with two horses twelve cents; for every chair, coach, phaeton, chaise stage-wagon, coachee or light-wagon, with two horses and four wheels, twenty cents; for either of the carriages last mentioned, with four horses, twenty cents; for every other

carriage of pleasure, under whatever name it may go, the like sums according to the number of wheels and horses drawing the same; for every sleigh or sled three cents for each horse drawing the same; for every cart or wagon or other carriage of burden, the wheels of which do not in breadth exceed four inches, five cents for every horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, three cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, shall roll more than ten inches, two cents for each horse drawing the same; for every cart or wagon the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches shall roll more than fifteen inches, one cent, for each horse, drawing the same—and for any such carriage, the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage as aforesaid shall be drawn by oxen or mules in the whole, or in part, one oxen shall be estimated as equal to one horse; and every ass or mule as equal to one horse in charging the aforesaid tolls: Provided, that no toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or to and from any place of public worship or funeral, on days appointed for that purpose.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons owning, riding in, or driving any carriage of burden or pleasure as aforesaid, or owning, riding, leading or driving any horse or mule or driving any hogs, sheep or cattle as aforesaid, shall, with an intent to defraud the said company, or to evade the payment of any of the tolls or duties aforesaid, pass therewith through any private gate or bar, or along or over any private passage way, or along or over any other ground or land near to, or adjoining any turnpike or gate, which shall be erected in pursuance of this act; or if any person or

persons shall with the intent aforesaid, take off, or cause to be taken off, any horse or other beast or cattle of draught or burden, from any carriage of burden or pleasure, or shall practise any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending in manner aforesaid, shall for every such offense, respectively, forfeit and pay to the president, managers and company of the Coshecton and Great Bend turnpike road the sum of fifteen dollars, to be sued for and recovered, as debts of equal amount are, or may be by law recoverable.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof shall be given to any justice of the peace of the proper county, such justice shall issue a precept, to be directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road complained of; of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, and the said justice shall, at such time and place, by the oaths or affirmations of the said freeholders inquire whether the said road or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under the hands and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair, according to the true intent and meaning of this act, he shall so certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpike or gates, for the intermediate distance between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair as aforesaid; and if the same shall not be so put in good and perfect order and repair be

fore the next ensuing court of quarter sessions of the proper county, the said justice shall certify and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue and bring in the bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be found defective as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest against the person or persons entrusted as aforesaid, and upon conviction shall give such judgment, according to the nature and aggravation of the neglect as the said court in there discretion shall judge proper: Provided, the fine in no instance shall be less than twenty dollars, nor exceeding one hundred dollars; and the fines so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said county, and shall be paid to the supervisors of the highways of the place wherein the offense was committed, to be applied to repairing such highways as the township or county is bound to repair at the public expense thereof.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all monies which shall be received by them from the said commissioners, and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of their said work, and shall once at least in every year submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this

act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting, to be convened according to the provisions of this act or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner and under the like penalties as are hereinbefore provided for the original subscriptions, or as shall be provided by their by-laws.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall also keep a just and true account of all the monies to be received by their several and respective collectors of tolls at the several gates or turnpikes on the said road, from the beginning to the end thereof, or such part thereof as shall from time to time be completed as aforesaid; and after the said road shall be completed, or so much thereof as it may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work being first deducted and reserved among all the subscribers to the stock of the said company, and shall on the first Monday in February and August in every year, publish the half yearly dividend to be made of the clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the general assembly of this commonwealth, an abstract of their accounts, showing the whole amount of their capital expended in prosecution of the said work, and of the income and profits arising from the said tolls for and during the said respective periods, together with an exact account of the costs and charges of keeping the

said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be known and ascertained; and if at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear from the average profits of the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall and may be lawful for the said president, managers and company, to increase the tolls hereinbefore allowed, according to such rate upon the same as will raise the dividend up to six per centum per annum as aforesaid; and at the end of every three years after the said road shall be fully completed as aforesaid, they shall render to the general assembly a like abstract of their accounts for the three preceding years; and if at the end of any such triennial period, it shall appear from such abstract that the clear profits and income of the said company will bear a dividend of more than nine per centum per annum, then the surplus above that amount, when sufficient shall arise, shall be appropriated by the said president and managers to the purchase of such share or shares of the said capital stock as the money arising from the said surplus, as aforesaid, will be found adequate to purchase, until all the said shares shall be so purchased; and the said subscribers shall determine by lot from time to time whose share or shares shall be paid off by the money arising as aforesaid; for which shares the said company shall pay the sums which were originally paid for each respective share; and when the whole number of shares shall be purchased as aforesaid, then the said road shall be free, and no toll whatever shall be exacted.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected at the intersection of every public road falling into and leading out of the said turnpike road, with boards and an index-hand pointing to the direction of such road, on both sides whereof shall be inscribed in legible characters, the name of the town or place to which such road leads; and the distance thereof in measured or computed

miles, and shall also cause mile-stones to be placed on the side of the road, beginning at the distance of one mile from Damascus mills at Coshecton, on the Delaware river, and extending thence to or near the twenty mile-stone in the north line of the state, whereon shall be marked, in plain legible characters, the respective number of miles which each stone is distance from Damascus mills aforesaid; and at every gate or turnpike by them to be erected on the said road shall cause the distance from the mills aforesaid, and the distances from the nearest gate or turnpike in each direction to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates, or some other conspicuous place near thereto, and also shall cause to be affixed at such places a printed list of the rates or tolls which from time to time may lawfully be demanded, for the information of travelers and others using the said road.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That any person or persons who shall wilfully break, deface, pull up or prostrate any mile-stone, which shall be placed in pursuance of this act on the side of the said road, or shall obliterate the letters or figures inscribed thereon, or shall wilfully break, pull down, deface, destroy or injure any direction-post which shall be erected in pursuance of this act, at the intersection of any road as aforesaid, or the board or index-hand affixed thereto, in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface or obliterate the letters, figures or other characters marked at any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned, or the whole or any part of any printed list of the rates or tolls which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike, he or they so offending in the premises and each of them shall for every such offense severally and respectively forfeit and pay to the said president, managers and company the sum of ten dollars, to be sued for and recovered as debts of equal amount are or may be by law recoverable.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That all wagoners, carters and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriage on the right hand side of the said road, in the passing direction, leaving the other side of the said road free and clear for other carriages to pass and repass; and if any wagoner, carter or driver, shall offend against this provision he shall forfeit and pay any sum not exceeding ten dollars, to any person who shall by reason thereof be obstructed in his passage and will sue for the same, to be recovered in the same manner as debts of equal amount are or may be by law recoverable.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That if any toll-gatherer on the said road shall demand and receive from any person or persons using the said road any greater or other toll than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offense, to the use of the overseers of the poor of the township in which the forfeiture shall be incurred.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if in case of any suit or prosecution which shall be commenced under the directions of this act, for any penalty directed by the same, whether by or against the said company, their servants or assignees, and the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case the person or persons prosecuted as aforesaid shall recover by the judgment of the justice before whom such suit or prosecution shall be depending, such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall by such justice be deemed a reasonable retribution for the vexation of such suit or prosecution.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That no suit or action shall be brought or prosecuted by any person or persons for any

penalties alleged to be incurred under this act, unless such suit or action shall be commenced within six months next after the offense shall have been committed; and the defendant or defendants in such suit or action may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall not proceed to carry on the said work within four years after the passing of this act, or shall not within twelve years thereafter complete the said road, according to the true intent and meaning of this act, then in either of those cases it shall and may be lawful for the legislature of the commonwealth to resume all and singular the rights, liberties, privileges and franchises by this act granted to the said company.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and twenty-five, think proper to take possession of the said road, three persons shall be chosen by the governor of the commonwealth, and three by the president and managers of the said company, and three by the judges of the supreme court, who or any six or more of them shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor, who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be paid, the right of the said company to take toll on the said road, together with all their right, title, claim and interest therein shall cease and determine.

CHAPTER MMCDLXXXIV.

AN ACT GRANTING RELIEF TO THE HEIRS OF MICHAEL IRICK,
DECEASED.

Whereas it appears that Michael Irick, late of the county of York, deceased, was enlisted as a soldier in the year one thousand seven hundred and seventy-seven, in colonel Hartley's regiment, for the term of three years, or until the end of the revolutionary war: And whereas it appears, that being on command at Wyoming, in the winter of one thousand seven hundred and eighty he, through the inclemency of the weather, had his feet nearly frozen off, in consequence of which he was disabled from continuing in the service of his country or of providing for himself and family: And whereas it further appears that said Michael Irick deceased never received any donation land, therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the board of property be, and they are hereby, required and directed to grant to the heirs of Michael Irick, late of the county of York deceased, the share of donation land to which he would have been entitled had he served to the end of the war.

Approved March 29, 1804. Recorded in L. B. No. 9, p. 553.

CHAPTER MMCDLXXXV.

AN ACT TO INCORPORATE AN ACADEMY OR PUBLIC SCHOOL IN THE
TOWN OF NORRIS, AND COUNTY OF MONTGOMERY, AND FOR
OTHER PURPOSES THEREIN MENTIONED, (').

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That there be erected, and hereby

is erected and established in the town of Norris, in the county of Montgomery, a county school or academy for the education of youth in the learned and foreign languages, the useful arts, sciences and literature; the style, name and title of which said school or academy, and the constitution thereof shall be and are hereby declared to be as is hereinafter mentioned and defined; that is to say, First. The said academy shall be forever hereafter called and known by the name of "The Norristown Academy." Second. That the said academy shall be under the management, direction and government of thirteen trustees and a principal, who shall be a trustee ex officio, or a quorum or board thereof, as hereinafter mentioned. Third. That the first trustees of the said academy shall consist of the following persons, to wit: William Tennent, Slator Clay, and John Gemmil, ministers of the gospel; Andrew Porter, Francis Swaine, Cadwallader Evans, John Jones, Seth Chapman, Levi Pawling, Isaac Huddleson, John Markley, Alexander Crawford and Robert Hamill, which said trustees and their successors, to be elected in the manner hereinafter mentioned, shall forever hereafter be and they are hereby erected, established and declared to be one body politic and corporate, with perpetual succession, in deed and in law, to all intents and purposes whatsoever, by the name, style and title of "The trustees of the Norristown academy;" by which name and title they the said trustees and successors shall be competent and capable in law and equity to take to themselves and their successors, for the use of the academy, any estate, in any messuage, lands, tenements, goods, chattels, monies or other effects, by the gift, grant, bargain, sale, conveyance, assurance, will, devise or bequest of any person or persons whomsoever: Provided, the same do not exceed in the whole the yearly value of ten thousand dollars, the same messuages, lands, tenements, hereditaments and estate, real and personal, to grant, bargain, sell, convey, assure, demise and to farm let, and place out on interest, or otherwise dispose of, for the use of the said academy, in such manner as to them, or at least five of them, shall seem most beneficial to the institution, and to receive the rents, issues, profits, income and interest of the same, and

to apply the same to the proper use and support of the said academy; and by the same name to sue, commence, prosecute and defend, implead and be impleaded, in any courts of law or equity, and in all manner of suits or actions whatsoever, and generally by and in the same name to do and transact all and every the business touching or concerning the premises, or which shall be incidentally necessary thereto, as fully and effectually as any natural person or body politic or corporate within this commonwealth have power to manage their own concerns, and to hold, enjoy and exercise all such powers, authorities and jurisdictions as are customary in other seminaries of learning. Fourth. The said trustees shall cause to be made for their use, one common seal, with such devices and inscriptions thereon as they shall think proper, under and by which deeds, diplomas, certificates and acts of the said corporation shall pass and be authenticated, and the same seal at their pleasure may break and devise a new one. Fifth. That the said trustees of the said academy, or five of them at least, shall meet at the town of Norris, on the first Monday of May next, for the purpose of concerting and agreeing to such business, as in consequence of this act shall be proper to be laid before them at the commencement of the institution, and shall have power to adjourn from time to time as they shall see cause for the purpose of perfecting the same. Sixth. That there shall be a meeting of the said trustees held once in every year at least, at the town of Norris, at such time as the said trustees or a quorum thereof shall appoint; of which notice shall be given after the first meeting, either by public advertisement in two of the nearest public newspapers, three weeks before the time, or by notice in writing, signed by the clerk or other officers of the trustees for that purpose to be appointed, and sent to each trustee at least ten days before the time of such intended meeting; and if at such meeting, seven of the said trustees shall not be present, those of them who shall be present shall have power to adjourn the meeting to any other day, as fully and effectually, to all intents and purposes as if the whole number of trustees, for the time being, were present; but if five or more of the said

trustees shall meet at the said appointed times or at any other time of adjournment, then such five or more of the said trustees shall be a board or quorum, and a majority of them shall be capable of doing and transacting all the business and concerns of the said academy, not otherwise provided for by this act, and particularly of making and enacting ordinances for the government of the said academy, of electing trustees to supply any vacancies that may happen by death, resignation or otherwise, of electing and appointing the principal and masters of the said academy, of agreeing with them for their salaries and stipends, ascertaining their several duties and powers, and removing them for misconduct or breach of the laws of the institution, of appointing committees of their own body to carry into execution all and every the resolutions of the board, of appointing a treasurer, secretary, stewards, managers and other necessary and customary officers, for the taking care of the estate and managing the concerns of the corporation, and generally a majority of the board or quorum of the said trustees, consisting of five persons at least, at any annual or adjourned meeting, after notice given as aforesaid, shall determine all the matters and things (although the same be not herein particularly mentioned) which shall occasionally arise and be incidentally necessary to be determined and transacted by the said trustees: Provided always, that no ordinances shall be of force which shall be repugnant to the laws of this state. Seventh. Persons of every religious denomination shall be capable of being elected trustees, nor shall any person, either as principal, master, or pupil, be refused admittance for his conscientious persuasion in matters of religion: Provided, he shall demean himself in a sober, orderly manner, and conform to the rules and regulations of the academy. No misnomer of the said corporation shall defeat or annul any gift, grant, will, or other writing, whereby any estate or interest was intended to pass to or from the said corporation, nor shall any disuser or nonuser of the rights, liberties, privileges, jurisdictions and authorities

hereby granted to the said corporation or any of them, create or cause a forfeiture thereof.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said trustees hereinbefore appointed and their successors, and the principal and masters, and every of them hereafter to be appointed, in such manner and form as herein is directed and required, before he or they enter upon the duties of their trust or office, shall before a justice of the peace of this state, take and subscribe the oaths or affirmations prescribed by the constitution of this state to be taken by the officers of this state, and shall also take an oath or affirmation for the faithful discharge of their respective trusts or offices aforesaid.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the trustees aforesaid, or their successors, or a majority of them, to sell and dispose of the aforesaid lot of ground, with the schoolhouse thereon erected, in the town of Norris aforesaid, with the rights, members, privileges and appurtenances thereunto belonging, as soon as the same may be conveniently done, either by private or public sale, for the best and highest price that can be had for the same, and to execute and deliver an assurance and conveyance of the premises, valid in law, to the purchaser or purchasers, his, her or their heirs and assigns forever, and to appropriate the monies arising from such sale towards the purchasing another larger lot, more conveniently situated in the town of Norris, and for the purpose of erecting thereon an academy for the education of youth.

Approved March 29, 1804. Recorded in L. B. No. 9, p. 554.

CHAPTER MMCDLXXXVI.

AN ACT ALTERING AND EXTENDING THE POWERS OF THE CORPORATION OF THE BOROUGH OF BRISTOL.

Whereas the burgesses, high constable and common council of the borough of Bristol, have, by their petition to the legis-

lature, represented that inconveniences are experienced by them in the execution of certain duties required by their charter of incorporation: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That in all elections of burgesses for the borough of Bristol aforesaid, the electors shall designate in their ballots the person voted for as chief burgess and the person voted for as second burgess; and if there shall be an equal number of votes for two or more persons as chief burgess, or as second burgess, then, in either case, there shall be a second ballot taken, to determine which of the persons having an equal number of votes as aforesaid, shall be chief burgess or second burgess, as the case may be.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That any inhabitant of said borough, who shall be duly elected to serve as a member of the common council, assessor or poundkeeper, and having due notice thereof, shall refuse to undertake and execute the office to which he shall have been elected, every person so refusing shall forfeit and pay the sum of ten dollars, to be levied by distress and sale of the goods of the party refusing, by warrant under the hand and seal of one of the said burgesses, or by any other lawful ways or means whatsoever, for the use of the said corporation; and in any such case it shall and may be lawful for the electors of the said borough, to proceed to the choice of some other fit person, in the stead of the person who shall so refuse.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That a majority of the burgesses and common council of the said borough, shall be a board, to do and perform all such things, and to exercise all such powers as are by law vested in the said corporation.

Section IV. (Section IV, P. L.) And whereas doubts have arisen whether the original charter authorizes the corporation of the said borough to have and hold real estate, and to sell and transfer the same. In order to remove such doubts,

Be it enacted by the authority aforesaid, that the said corporation, by the name and style of the burgesses, high constable and common council of the borough of Bristol, shall, at all times hereafter, be persons able and capable in law, to have, get, receive, hold and possess lands, tenements, rents, liberties, jurisdictions, franchises, and hereditaments, to them and their successors in office, in fee simple or for term of life, lives, years or otherwise, and also goods and chattels, and other things, of what nature or kind soever, and also to give, grant, let, sell and assign the same lands, tenements, hereditaments, goods and chattels, and generally to do and execute all other things about the same, by the name aforesaid; and they shall forever hereafter be persons able and capable in law, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all or any of the courts within this commonwealth, or other places, and before any judges, justices or other persons whomsoever within this commonwealth, in all manner of actions, suits, complaints, pleas, causes and matters whatsoever.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That so much of the original act of incorporation, or of any other act for the regulation of the borough of Bristol aforesaid, as are altered or supplied by the provisions of this act, be, and the same are hereby repealed.

Approved March 29th. Recorded in L. B. No. 9, p. 557.

CHAPTER MMCDLXXXVII.

AN ACT TO ERECT THE TOWN OF MORRISVILLE INTO A BOROUGH.

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the town of Morrisville and its vicinity, in the county of Bucks, shall be, and the same is hereby erected into a borough, which shall be called

the borough of Morrisville, bounded and limited as follows, that is to say; Beginning at the upper corner of the township of Falls, at the river Delaware; thence along the line of the township of Lower Makefield, south fifty degrees, west one hundred and twenty perches to the Newtown road; thence cutting off a corner of William Jenk's land, so as to take the back line of Lewis Le Guen's and Henry Clymer's lands; south twenty-seven and an half degrees east two hundred perches, to Clymer's corner; thence through his and Mahlon Milnor's land, and cutting off a small corner of Mahlon Longstreth's land, south thirty-two degrees east two hundred and seventy perches, into other land of said LeGuen, to a corner at twenty perches distance from the lines of John Carlisle's land; thence at that distance parallel therewith (where a street is to be opened) north sixty degrees east, one hundred and twenty perches to the creek; thence up the said creek to its junction with the river; thence up the river, taking in the island to the place of beginning.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for all persons entitled to vote for members for the legislature, who have resided in the said borough twelve months previously to such election, to meet at the schoolhouse in the said borough, on the third Monday in April in every year, and then and there elect by ballot, between the hours of twelve and six of the same day, one reputable citizen residing therein, who shall be styled burgess of the said borough, five reputable citizens to be a town council, and one reputable citizen to be a high constable; but previously to such election the inhabitants shall appoint two reputable citizens as judges, one as inspector, and two as clerks of the said election, which shall be regulated and conducted according to the general election law of this commonwealth, so far as relates to receiving and counting votes, and who shall be subject to the same penalties for mal practices as by the said law are imposed; and the said judges, inspector and clerks, before they enter upon the duties of their respective offices, shall take an oath or affirmation before any justice of the peace of the

said county, to perform the same with fidelity; and after the said election shall be closed, shall declare the persons having the greatest number of votes to be duly elected; whereupon a sufficient number of certificates thereof shall be signed by the said judges, one of which shall be transmitted to each of the persons elected, and the other filed among the records of the corporation; and in case of a vacancy in any of the said offices, by death, resignation or otherwise, the burgess, or in his absence, or inability to act, the first named of the town council shall issue his precept, directed to the high constable, requiring him to hold an election in manner aforesaid, to supply such vacancy, giving at least ten days notice by advertisements set up at four of the most public places in the said borough.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the third Monday in April next, the burgess and town council duly elected as aforesaid, and their successors, shall be one body politic and corporate in law, by the name and style of "The burgess and town council of the borough of Morrisville," and shall have perpetual succession; and the burgess and town council aforesaid, and their successors, shall be capable in law to have, get, receive, hold and possess goods and chattels, lands and tenements, rents, liberties, jurisdictions, franchises, and hereditaments, to them and their successors, in fee simple, or otherwise, not exceeding the yearly value of five thousand dollars, and also to give, grant, sell, let and assign the same lands, tenements, hereditaments and rents; and by the name and style aforesaid they shall be capable in law to sue and be sued, plead and be impleaded, in any of the courts of law in this commonwealth, in all manner of actions whatsoever, and to have and use one common seal, and the same from time to time at their will to change and alter.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person duly elected as burgess, or a member of the town council or constable as aforesaid, and having received notice thereof, as aforesaid, shall refuse or neglect to take upon himself the execution of

the office to which he shall have been elected, every person so refusing or neglecting, shall forfeit and pay the sum of twenty dollars; which fine and all other fines and forfeitures incurred and made payable in pursuance of this act, or by the by-laws and ordinances of the town council, shall be for the use of the said corporation.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the burgess, town council and high constable, and each of them, before entering upon the duties of their respective offices, shall take an oath or affirmation before any justice of the peace of the county of Bucks, to support the constitution of the United States and of this state, and to execute the duties of their respective offices with fidelity; and the certificates of such oaths and affirmations shall be filed among the records of the said corporation.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the town council to meet as often as occasion may require, and enact such by-laws, and make such rules, regulations and ordinances, as shall be determined by a majority of them to be necessary to promote the peace, good order, benefit and advantage of said borough, and particularly of providing for the regulation of the streets, lanes, alleys and highways therein; they shall have power to assess, apportion and appropriate such taxes as shall be determined by a majority of them to be necessary for carrying the said rules and ordinances from time to time into complete effect, and also to appoint a town clerk, treasurer and such other officers as may be deemed necessary from time to time: Provided, that no by-law, rule, or ordinance of the said corporation shall be repugnant to the constitution or laws of the United States or of this commonwealth; and that no person shall be punished for a breach of a by-law or ordinance made as aforesaid, until three weeks have expired after the promulgation thereof, by at least four advertisements set up in the most public places in the said borough: And provided also, that no tax shall be laid in any one year on the valuation of taxable property exceeding one cent in the dollar, unless some object of

general utility shall be thought necessary; in which case a majority of the freeholders of said borough, by writing under their hands, shall approve of and certify the same to the town council, who shall proceed to assess the same accordingly.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the burgess elected and qualified agreeably to this act, is hereby authorized and empowered to issue his precept, as often as occasion may require, directed to the high constable, commanding him to collect all taxes assessed, and fines and forfeitures imposed by this act, or by the ordinances or regulations of the corporation, and the same to pay over to the treasurer; and the said burgess is hereby authorized to carry into effect all by-laws enacted by the council, and whatever else shall be enjoined on him for the well-ordering and governing the said borough; he shall have jurisdiction in all disputes between the corporation and individuals arising under the by-laws.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the town clerk to attend all meetings of the council when assembled upon business of the corporation, and perform the duty of clerk thereto, and keep and preserve the common seal and records of the corporation, and be answerable for the same, and also for the faithful discharge of all the duties which may be enjoined upon him by virtue of this act, or of the acts of the corporation, and his attestation with the seal of the corporation, shall be good evidence of the act or thing so certified.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the treasurer shall give security to the burgess for the faithful discharge of the duties of the office, and for the safe delivery of all monies, books and accounts appertaining thereto, into the hands of his successor, upon demand made for that purpose.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the treasurer, clerk, constable and such other officers as may be appointed by the town coun-

cil, in pursuance of this act or of the by-laws of the corporation, shall render their accounts to the council at least once in every year, and as much oftener as they or either of them may be called upon for that purpose by the said council, for settlement; and the said accounts being adjusted and settled, accordingly, shall be forthwith published by the said council, showing particularly the amount of taxes laid and collected, and of the expenditures.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the high constable to serve all process issued by the burgess within the said borough; to collect the taxes; to give notice of the annual and special elections of the said borough, by setting up advertisements in at least four of the most public places within the said borough, at least ten days previously thereto; he shall attend and see that the same is opened at the time, and in the manner prescribed by this act, and generally do and perform all the duties enjoined on him by this act, and by the by-laws and ordinances made in pursuance thereof: Provided, that it shall be the duty of the constable of the township of Falls, for the time being, to publish and superintend the election, to be held on the third Monday in April next, as hereinbefore directed.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall think him, her or themselves aggrieved, by anything done in pursuance of this act, he, she or they may appeal to the next court of quarter sessions, to be held for the county of Bucks, upon giving security, according to law, to prosecute his, her or their appeal with effect; and the court having taken such order therein as shall appear to them just and reasonable, the same shall be conclusive against all parties.

CHAPTER MMCDLXXXVIII.

AN ACT TO EXTEND AND CONTINUE AN ACT, ENTITLED "A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO COMPLETE THE BENEVOLENT INTENTION OF THE LEGISLATURE OF THE COMMONWEALTH BY DISTRIBUTING THE DONATION LANDS TO ALL WHO ARE ENTITLED THERETO."⁽¹⁾

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the act, entitled "A supplement to the act, entitled "An act to complete the benevolent intention of the legislature of this commonwealth, by distributing the donation lands to all who are entitled thereto," be, and the same is hereby extended and continued for and during the term of one year from the first day of April next.

Approved March 29, 1804. Recorded in L. B. No. 10, p. 4.

Note (1) Chapter 2287; Supra this volume, p. 131.

CHAPTER MMCDLXXXIX.

AN ACT FOR THE RELIEF OF MARCUS HULINGS, JUNIOR.

Whereas it appears by a certified copy of the nuncupative will of a certain Richard Kenehan, given under the hand and seal of office of William Lyon, esquire, register of probates and wills, in and for the county of Cumberland; that the said Richard Kenehan devised, by his last will, unto a certain Sarah Wilson, a tract of donation land situate in the sixth district No. 1292, who afterwards became the wife to a certain Samuel Hogge, who, together with his said wife Sarah, conveyed the said devised tract of land to a certain Alexander Power, who conveyed the said tract to a certain Marcus Hulings, junior, as plainly appears by the original patent, and other deeds of conveyance: And whereas doubts have arisen

respecting the validity of said nuncupative will, and that there is a possibility that the said devised tract of land might escheat to the commonwealth for want of strict legal form, it not having been proven within the time prescribed by law; and as it appears that it was the desire, wish and intention of the said Richard Kenehan, that the said Sarah Wilson should possess, inherit and enjoy the same; and it plainly appearing from the chain of title, that the equitable right is vested in the said Marcus Hulings if no other legal heir or heirs should come forward to claim the same: And whereas the same moral motives that hath heretofore governed the state in similar cases will not suffer any advantage to be derived from an escheat under such circumstances: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate, and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all the real estate of the said Richard Kenehan, whereof he died seized and possessed, or whereto he was in any wise entitled, in or to the said tract of donation land, situate in the sixth district, No. 1292, shall be and remain vested in the said Marcus Hulings, junior, to be had and held by him, his heirs, executors, administrators and assigns forever, and that free released, and forever discharged from all and every right, title, interest, claim and demand of this commonwealth, of, in, to and out of the said estate or any part thereof, by reason of any escheat or supposed escheat, for want of heirs, or any known kindred of the said Richard Kenehan, to inherit, take and possess the same: Provided always, nevertheless, that the said estate shall be subject to the claim of any heir or heirs of the said Richard Kenehan, under any law or laws of this commonwealth.

CHAPTER MMCDXC.

A SUPPLEMENT TO AN ACT, ENTITLED "AN ACT TO AUTHORIZE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR ERECTING A BRIDGE OVER THE RIVER DELAWARE AT OR NEAR TRENTON." (1)

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the president, managers and company, for erecting a bridge over the river Delaware, at or near Trenton, with their engineers, artists and workmen, to enter into and upon any lands on the main land, or on Morrisville island, and there to erect and maintain such and so many abutments and arches as they may deem necessary and expedient, and to open and maintain a road of such width as they may think necessary across said island; and at their option either to open and maintain a road across the mill dam which now connects the said island with the main land, or to erect a bridge across the water dividing the island from the main or fast-land as may be deemed most expedient: Provided always, nevertheless, that if any person or persons shall think himself, herself, or themselves aggrieved or injured by the proceedings of the said company, or if the owner or owners of the Morrisville island, mill dam, or mills, or any of them, shall at any time hereafter sustain any damage in consequence of the erection of the said bridges, or either of them, then in either case it shall and may be lawful for the injured person to make application to the court of common pleas of Bucks county; and the said court shall nominate fifteen disinterested freeholders of said county, and shall cause a list of such freeholders to be delivered to the person complaining, and also to the president or some one of the managers of the said Delaware bridge company; and the said person, so complaining, and the president, or one of the managers aforesaid, shall respectively and al-

ternately strike off one name, until seven only shall remain; which said seven freeholders (ten days notice of the time and place of meeting being previously given by the said person complaining to the said president or to one of the said managers) shall proceed to view and ascertain whether any, and if any, what damages or injury have been or shall be sustained by the said party complaining, in consequence of the proceedings had in the premises; and the award of the said freeholders or a majority of them, being filed in the prothonotary's office of Bucks county, shall be binding on both parties and be final.

Section II. (Section II, P. L. (And be it further enacted by the authority aforesaid, That the term limited for finishing said bridge, and recited in the act to which this is a supplement, shall be and the same hereby is further extended to the term of four years, to commence from the passing of this act; and if the company, at the expiration of said four years, shall not have completed the said bridge, it shall and may be lawful for the legislature of this commonwealth to resume all and singular the rights, liberties and privileges hereby granted to the said company.

Approved April 2 1804. Recorded in L. B. No. 10, p. 5.

Note (1) Chapter 2011; 16 Statutes at Large p. 137.

CHAPTER MMCDXCI.

AN ACT CONFERRING CERTAIN POWERS ON THE COMMISSIONERS OF BERKS COUNTY, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of Berks county shall have full power and authority, and they are hereby enabled to settle, compromise and compound with Obadiah Osburn and his sureties, or any of them, any claim, demand, cause or causes of action, which the said commissioners, in behalf of the said county, now have or at any time hereafter might have against the said Obadiah Osburn or

his sureties for non-performance on his part, of a certain bond and contract entered into for the erection of a wooden bridge over the Schuylkill, at or near Reading.

Section II. (Section II, P. L.) And whereas it is represented that the county of Berks hath expended nearly thirty thousand dollars in building a bridge over the river Schuylkill, near Reading, and that it will require near seventy thousand dollars to complete the same, if built of stone; and the citizens of that county being desirous to have the said bridge built of stone rather than of wood, as was originally contemplated; and it appearing by a statement of the comptroller-general, that the sum of four thousand seven hundred eighty-nine dollars and twelve cents, is yet due owing to this commonwealth, of the arrears of state taxes, in the county of Berks, and such laudable and spirited undertakings, being highly deserving of public encouragement: Therefore, Be it further enacted by the authority aforesaid. That all the arrears of taxes due from the county of Berks to this commonwealth, five hundred dollars already appropriated for rebuilding the bridges over Swatara and Deep creeks, on the Tulpehocken road, only excepted, be, and they hereby are granted to the commissioners of said county, to be applied in aid of the said county, towards defraying the expense of erecting a stone bridge over Schuylkill near Reading; and all the necessary powers, are hereby vested in and granted to the said commissioners, to collect, recover and receive the said arrearages, from the persons, districts or townships where the same may be due within the said county.

Approved April 2, 1804. Recorded in Book No. 10, p. 6.

CHAPTER MMCDXCII.

AN ACT AUTHORIZING JACOB EICHELBERGER AND FREDERICK SHULTZ TO SELL AND CONVEY A CERTAIN LOT OF LAND IN HEIDELBERG TOWNSHIP, IN THE COUNTY OF YORK, BELONGING TO THE GERMAN LUTHERAN CONGREGATION IN AND NEAR HANOVER, IN THE SAID COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Jacob Eichelberger, and Frederick Shultz, be, and they hereby are authorized to sell and convey to such person or persons, and on such terms as they shall deem most beneficial and advantageous to the German Lutheran congregation, in and near to the town of Hanover, in the county of York, all the right and title which the said congregation hath in and to a certain lot of land, situate in the township of Heidelberg, in the said county, containing sixteen acres and one quarter of an acre, which was conveyed by John Creat and Elizabeth his wife, by indenture of the fifth day of October, anno domini one thousand seven hundred and seventy-nine, to Frederick Gilvex, Henry Slagle and others, in trust for the use of the congregation aforesaid, and apply the monies which may arise from the sale of the said lot, to the payment and discharge of the debts now due and owing from the said German Lutheran congregation.

Approved April 2, 1804. Recorded in Book No. 10, p. 7.

CHAPTER MMCDXCIII.

AN ACT FOR DIVIDING THE BOROUGH OF LANCASTER INTO TWO ELECTION WARDS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the borough of Lancaster shall be divided into two election wards, in manner following, to wit: All that part of the borough of Lancaster, to the east of Queen street, shall be one ward, and shall be called east ward; and all that part of the said borough, to the west of Queen street, shall be one ward, and shall be called west ward; and it shall henceforth be lawful for the electors of the said borough, at the same time, and in the same manner, as is prescribed by the second section of the act, entitled "An act to regulate the general

elections within this commonwealth,"⁽¹⁾ to choose one additional inspector to serve at the general elections for the said borough; and in conducting the said general elections for the said borough, and receiving the votes at the same, the inspector for each ward shall occupy one window of the house where the election shall be holden, and no inspector shall receive any votes but from electors, who shall reside in the ward for which he shall have been chosen: And provided always, that at the election for inspectors as aforesaid, the electors of said borough shall vote for two persons, one of whom shall reside in east ward, and one in west ward; and if at any such election, for inspector, any ticket or tickets shall be received, containing the names of two persons, both of whom shall reside in the same ward, the same shall be destroyed and considered as of no effect.

Approved April 2, 1804. Recorded in L. B. No. 10. p. 7.

Note (1) Chapter 2020; 16 Statutes at Large p. 163.

CHAPTER MMCDXCIV.

AN ACT TO EMPOWER CHAMBERS GAW TO SELL AND CONVEY CERTAIN REAL ESTATE THEREIN MENTIONED, AND FOR OTHER PURPOSES.

Whereas Chambers Gaw, by his petition to the General Assembly, hath represented that his infant daughter, Mary Gaw, in right of her mother and uncle, John Galloway, deceased, is entitled to a small undivided interest, of and in two tracts of land, in Buffalo township, in the county of Cumberland, and state of Pennsylvania, and that said lands are unimproved, and are liable to considerable and unavoidable injury from the destruction of timber and other circumstances, and that it would be much for the interest of all persons concerned, and it is their desire, that the said tracts of land should be sold; but an advantageous sale thereof cannot be made, on account of the infancy of the said Mary Gaw, the only child of the said Chambers Gaw, and his late wife Catherine, and the said petitioner prayed that an act might be passed, authoriz-

ing him, on behalf of his said daughter, to sell and convey her interest in the said tracts of land: And whereas it appears just and reasonable to grant the prayer of the petitioner: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Chambers Gaw shall be, and he is hereby authorized to sell and convey, in fee simple, for such price, in such manner, and on such terms, as he shall think most advantageous, all that undivided share in certain tracts of land, to which his late wife was entitled, and whereof the said Chambers Gaw is now seized, of an estate for term of his life, as tenant by the curtesy, with remainder to his said child; and also all the estate and interest in the said tracts of land, which descended to the said Mary Gaw, from her uncle John Galloway, deceased; and the contracts, sales, conveyances, and receipts for purchase-money, to be made and given by the said Chambers Gaw, touching the premises, shall be as valid and effectual as if his said child was of full age, and a party to the same; but shall have no greater validity or effect whatsoever: Provided always that the said Chambers Gaw shall give bond, with sufficient sureties, to the orphans court of the city and county of Philadelphia, that he, his heirs, executors, or administrators, shall pay to his said child, or in case of her death, before she arrives at the age of twenty-one years, to such person or persons as would have been entitled to the said estate if it had remained unsold, the full amount of the sum for which the said Chambers Gaw shall sell the same, together with any increase of profits which may arise from the use thereof.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 8.

CHAPTER MMCDXCV.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT CONCERNING DIVORCES AND ALIMONY."⁽¹⁾

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all marriages, within the degree of consanguinity, or affinity, according to the table established by law, are void to all intents and purposes; and it shall and may be lawful for the courts hereinafter mentioned, or any of them, to grant divorces from the bonds of matrimony; and the parties shall be subject to the like penalties as are contained in an act⁽²⁾ against incest.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That any person who hath been or shall be injured in any of the ways mentioned in the second section of the act⁽¹⁾ to which this is a supplement, may apply in the manner prescribed by the third section of the said act, to the judges of the supreme court, in term time, or at any circuit court, or to one or more of them in vacation, or to the judges of the courts of common pleas of the proper county; and like proceedings shall be had, in order to compel the appearance of the party complained against, as are directed to be had in and by the said third section of the act⁽¹⁾ aforesaid, either at the next supreme court, circuit court, or court of common pleas, as the case may be; and the said courts, respectively, shall have like powers in all things touching divorces and alimony, as the judges of the supreme court now have by virtue of the act⁽¹⁾ to which this is a supplement: Provided always, that the proclamation directed by the act⁽¹⁾ aforesaid, to be made by the sheriff of the city and county of Philadelphia, at the market place, shall be made by the said sheriff, or by the sheriff of the proper county, as the case may require, on three several days, in term line, at the court-house

of the city or county where any such application shall have been made; and that the notices to the party against whom a subpoena shall have issued, shall be given in some public newspaper printed in the city of Philadelphia, or in the proper county, or in some adjoining county, in case no paper is printed in the county where such application shall be made, for four successive weeks: And provided also, that when a trial by jury is to be had as to any controverted matters of fact, the same shall be in any of the above mentioned courts, when sitting, in the city or county where the fact is charged to have arisen.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That either of the parties, in any suit or action to be brought in pursuance of this act, or the act⁽¹⁾ to which this is a supplement, after any final sentence or decree given, may appeal therefrom to the supreme court, or to the high court of errors and appeals, as the case may require, upon entering into a recognizance, in manner and form, as is prescribed by the twelfth section of the act⁽¹⁾ to which this is a supplement, to the court or some judge thereof, from which such appeal shall be made.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That so much of the act, entitled "An act against incest,"⁽²⁾ as is hereby altered or supplied, be and the same is hereby repealed.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 9.

Note (1) Chapter 1387; 12 Statutes at Large p. 94.

Note (2) Chapter 120; 2 Statutes at Large p. 178.

CHAPTER MMCDXCVI.

AN ACT TO PROVIDE FOR OPENING AND IMPROVING A ROAD THROUGH
IGOE'S NARROWS, IN THE COUNTY OF HUNTINGDON.

Whereas the citizens of Huntingdon county have, by their petition to the legislature, set forth the great advantages that would result to the community from the improvement of the road leading from the borough of Huntingdon through

Igoe's Narrows, towards the seat of government, which road is almost impassible in high water, by reason of an inaccessible rock, projecting from the hill towards the river, which could be remedied by wharfing a short distance.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of the county of Huntingdon be, and they are hereby authorized and required to lay out and expend the sum of six hundred dollars towards opening, repairing and improving, by wharfing or otherwise, as the case may require, that part of the said road, through Igoe's Narrows, which lies below the house of Peter Vandivender; and the said commissioners of Huntingdon county, are hereby authorized and required, from time to time, to draw orders upon the treasurer of Huntingdon county for such parts of the said sum of six hundred dollars, as shall be necessary for the purposes aforesaid; and the treasurer of Huntingdon county shall have credit for the same in the settlement of his accounts with the state treasurer, for the balance due the state from the said county of Huntingdon, on account of the loan to the trustees of the same, by an act, entitled "An act to extend the powers of the commissioners of Huntingdon county, to assess and levy a further sum for erecting and completing the public buildings, and to grant a loan to the trustees of the same," passed the nineteenth day of April one thousand seven hundred and ninety-four;⁽¹⁾ and the county auditors shall audit, settle and adjust the accounts and disbursements of the said commissioners, in improving the said road, in the same manner as their accounts are settled in other cases.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 10.

Note (1) Chapter 1753; 15 Statutes at Large, p. 96

CHAPTER MMCDXCVII.

AN ACT FOR REBUILDING THE BRIDGES OVER SWATARA CREEK AND DEEP CREEK, ON THE TULPOHOCKEN ROAD, IN THE COUNTY OF BERKS.

Whereas it has been represented to the legislature, by petitions from sundry inhabitants of Berks and Northumberland counties, that the road commonly called the Tulpohocken road, leading through the said counties, has heretofore been opened, repaired, and the bridges on the same built by private subscription; that the road is now out of repair, and the bridges impassible, and praying for the aid of the legislature: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of the county of Berks be, and they are hereby authorized and required, to contract with suitable persons in writing, for the rebuilding of the bridges over Swatara creek and Deep creek, on the Tulpohocken road, in such manner and form as to them shall appear best and most convenient; and when the said bridges shall be rebuilt, the said commissioners shall report the completion of the work to the grand jury of the county of Berks, at their next court of quarter sessions, who shall appoint three disinterested persons, into whose hands the contract or contracts aforesaid shall be put, who shall view the works, and endorse on the contract or contracts a certificate, whether the work has been completed agreeably to the contract or not.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners, upon their receiving the certificate of the viewers so endorsed as aforesaid, that the said contract has been fully complied with, and the work sufficiently executed, shall draw orders on the treasurer of Berks county for one half of the amount of the

expense: Provided such half does not exceed five hundred dollars, to be paid out of the arrearages of state taxes due from the county of Berks, and an order for the other half not exceeding five hundred dollars, on the treasurer of Northumberland county, to be paid as aforesaid; for the payment of which sums the respective treasurers shall have credits in the settlements of their accounts with the commonwealth: Provided nevertheless, that the said commissioners may advance by drawing orders as aforesaid, any part not exceeding one half of the sum mentioned in the contract to the undertakers of the work, upon their giving bond with sufficient security to refund the money advanced if the contract is not complied with.

Approved April 2 1804. Recorded in L. B. No. 10, p. 11.

CHAPTER MMCDXCVIII.

A FURTHER SUPPLEMENT TO THE ACT, ENTITLED, "AN ACT DIRECTING THE DESCENT OF INTESTATES REAL ESTATES AND DISTRIBUTION OF THEIR PERSONAL ESTATES, AND FOR OTHER PURPOSES THEREIN MENTIONED." (1)

Whereas by the laws regulating the distribution of intestate estates, no provision is made for the sale of estates, which not being capable of division have been or hereafter may be appraised, and which none of the heirs or representatives of such intestate are able or willing to take at such appraisement, and by reason thereof the proceedings in the orphans court (which is considerably expensive) may be abortive, and the parties constrained either to await the mutual consent of each other, to dispose of the estate, or sell out by undivided interests at great disadvantage: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That where any person hath died or hereafter may die intestate, seized of real estate in this commonwealth, subject to partition or valuation, as pre-

scribed by the act⁽¹⁾ to which this is a supplement, which real estate cannot be divided, but hath been or shall be appraised, and none of the children or other legal representatives of the deceased, will take the same at the valuation, it shall then be the duty of the orphans court, on the application of any one of the children, or other legal representative, to grant a rule upon all the heirs or other persons interested in such estate, to show cause on the first day of the next regular session of said court, why the estate of the intestate should not be sold: Provided, a copy of such rule be served on such of the heirs or representatives interested, as reside in the county where the estate lies, by delivering it to the person, if of age, or his or her guardian, if a minor, or by leaving a copy thereof at their usual place of abode at least twenty days before the time of holding the court, as aforesaid; and that notice shall be given to such of the heirs or other legal representatives as live out of the county in which the estate lies, by publishing a copy of said rule, certified by the clerk of the orphans court, in the newspaper printed in the county, if any be there printed; and if not, in the newspaper published nearest to such county, at least four weeks previously to the court; and if cause be not shown to the said court according to the said rule, it shall and may be lawful for the said court, and they are hereby enjoined and required, on due proof of notice of the aforesaid rule being given, to make an order or decree commanding the executor or executors, administrator or administrators (as the case may be) to expose the real estate of the intestate to public sale, on the premises, on a day certain, upon such terms as the court may think proper to direct; of all which the executor or executors, administrator or administrators, shall give at least ten days notice, by advertisement in the newspaper printed in such county, if any there be, and if none, then in that nearest to the county where the land lies.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That upon such sale made as aforesaid, and return thereof to the aforesaid court, it shall be the duty of said court, and they are hereby required, on motion

of the purchaser, to confirm the sale, and to decree the estate in the premises, so sold, to be transferred and vested in such purchaser, as fully as the intestate held the same at his decease, subject and liable to the payment of the purchase-money, according to the terms prescribed by the court in the order of sale; and said court shall cause the proceeds of such sales to be distributed, in such manner as according to law and justice may be proper.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 12.

Note (') Chapter 1751; 15 Statutes at Large, p. 80.

CHAPTER MMCDXCIX.

AN ACT TO PROVIDE FOR THE PAYMENT OF A CERTAIN BALANCE OF PURCHASE MONEY YET DUE AND REMAINING CHARGED ON LANDS, WHICH HAVE BEEN PATENTED ON WARRANTS OBTAINED SINCE SURVEYS WERE ORIGINALLY MADE IN PURSUANCE OF OLD PROPRIETARY WARRANTS AND LOCATION, AND FOR OTHER PURPOSES.

Whereas it appears, from the papers in the land office of this state, that many persons who held lands under proprietary warrants or locations, have, as is apprehended, in order to obtain patents for the same at reduced prices, procured new warrants from the state, on which, in most cases, patents have issued, thereby endeavouring to avoid the payment of part of the principal and interest due on their original contracts, and at the same time rendering the titles of those who are purchasers under them insecure: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from after the passing of this act, on the application of any person or persons holding a warrant or warrants for lands within this commonwealth, issued under the authority of the same, on which surveys have been made, or patents issued, and who are also in possession of the title to the same land, or any part thereof, by virtue of a proprietary warrant or location, and who are now desirous of doing justice to the state by patenting their said

lands on their old proprietary warrants or locations, that the board of property shall have power to direct the receiver general, on settlement of their said accounts on the said proprietary warrants or locations, to carry to their credit the amount of purchase-money and interest paid by them, or those under whom they claim on their said new warrants.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That this act and the benefit and advantages offered by the same, shall be and remain in force for three years, and from thence to the end of the next session of the legislature.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 13.

CHAPTER MMD.

AN ACT FOR THE RELIEF OF DAVID JACKSON.

Whereas it is represented to this legislature that David Jackson, during the revolutionary war, was called out on a tour of duty, in the Chester county militia, in Captain David Hay's company, in a regiment commanded by colonel Evan Evans, and that in the cannonade at Trenton, on the second day of January one thousand seven hundred and seventy-seven, he had his left hand shot off by a cannon ball; that by an order of the orphan's court in Chester county, he was allowed a pension of four dollars a month, and that afterwards (to wit on the first day of November one thousand seven hundred and eighty-seven) he was allowed an additional dollar per month; that since the first of May one thousand seven hundred and eighty-nine, his pension has been paid by the United States, and has for more than nine years past been reduced to four dollars per month: And whereas the said David Jackson is now aged and infirm, and unable to support himself by labor, and hath prayed the legislature to grant him relief, by allowing him the addition to his pension, as established in the year one thousand seven hundred and eighty-seven: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That David Jackson, now of the county of Lancaster, be and he is hereby allowed from this commonwealth, twelve dollars a year, in addition to his pension of forty-eight dollars per annum, which he now receives from the United States, from the first day of January one thousand seven hundred and ninety-five, for and during his natural life, to be paid to him or his lawful attorney, in the manner following, to wit: One hundred and eight dollars for the first nine years immediately after the passing of this act, and afterwards in half yearly payments, from the said first day of January one thousand eight hundred and four, on warrants to be drawn by the governor out of any of the unappropriated monies in the treasury of this commonwealth.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 14.

CHAPTER MMDI.

AN ACT FOR THE RELIEF OF NICHOLAS REEM.

Whereas it appears that Nicholas Reem (alias Nicholas Rheam) of Northumberland county, so early as the year one thousand seven hundred and seventy-six, did enlist in the late revolutionary army for three years, or during the war, and continued therein as sergeant until some time in the year one thousand seven hundred and eighty-one, when he was discharged by reason of wounds received in the service, which disabled him from longer serving his country in a military capacity: And whereas the said Nicholas, presuming on the justice of his claim, has petitioned the legislature to grant him a share of donation land; and inasmuch as it appears both equitable and just, that the soldier, who, through the adverse fate of war was prevented from serving to the end thereof by wounds, honorably received, is equally entitled to the rewards

intended by a grateful country, for those who more fortunately survived that glorious and all-important service: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the officers of the land-office be, and they are hereby directed and required, to grant a patent to Nicholas Reem (alias Nicholas Rheam) his heirs and assign, for such share of donation land to which a sergeant is entitled who served in the line of this state in the armies of the United States, to the end of the late revolutionary war.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 14.

CHAPTER MMDII.

AN ACT MAKING COMPENSATION TO BRIGADE INSPECTORS FOR FURNISHING BLANK FORMS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, each brigade inspector shall, in full compensation for furnishing all such necessary blank forms as are prescribed in the tenth section of the militia law, passed the sixth day of April one thousand eight hundred and two,⁽¹⁾ receive yearly the sum of ten dollars for each regiment in his brigade, out of the militia fund, on warrants drawn by the governor.

Approved April, 1804. Recorded in L. B. No. 10, p. 15.

Note (1) Chapter 2302; Supra, this volume, p. 174.

CHAPTER MMDIII.

AN ACT TO PROVIDE FOR THE COPYING OF A CERTAIN ANCIENT BOOK OF RECORDS IN THE OFFICE OF THE RECORDER OF DEEDS IN THE COUNTY OF CHESTER.

Whereas it hath been represented to the legislature, by the recorder of deeds in and for the county of Chester, that there

is in his office an ancient book of records, marked A. vol. I, which from the lapse of time and unavoidable accidents, is much defaced and injured, so as to become almost illegible; but owing to the marginal notes contained therein, cannot be rebound; and as the perpetuation of the records contained in the said book is of great importance: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the recorder of deeds of the said county of Chester be, and he is hereby authorized, to procure a good and sufficient paperbook, well bound, in which it shall be his duty to copy, or cause to be copied, all the records contained in the said ancient book; and the expense accruing in the purchase of a book, and in copying the records therein, shall be defrayed by the commissioners of the said county of Chester out of the county stock.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the copies of the said records having been entered in a new book as aforesaid, and carefully collated with the originals by the said recorder, and a certificate thereof laid before the court of general quarter sessions of the county of Chester aforesaid, shall from thenceforth be considered as matters of record; and all exemplifications therefrom shall have the same force and effect as if the same were made from the original records.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 15.

CHAPTER MMDIV.

A SUPPLEMENT TO THE ACT, ENTITLED, "AN ACT TO ESTABLISH A BOARD OF WARDENS FOR THE PORT OF PHILADELPHIA, AND FOR THE REGULATION OF PILOTS AND PILOTAGES, AND FOR OTHER PURPOSES THEREIN MENTIONED." (').

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That the master of every ship or vessel of the burden of seventy-five tons or more, shall make report on his arrival at the city of Philadelphia, and also when outward bound, in the same time and in the same manner as is prescribed by the twenty-ninth section of the act⁽¹⁾ to which this is a supplement; and if the master of such ship or vessel shall neglect to make such report, he shall forfeit and pay any sum not less than ten dollars, and not exceeding fifty dollars, at the discretion of the board of wardens, for every such neglect; which fine shall be recovered and applied in the same manner that is directed by the act⁽¹⁾ to which this is a supplement.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the compensation to pilots for conducting ships or vessels, which are not registered, but which are the sole property of a citizen or citizens, of any of the United States, shall be the same that is paid for registered vessels of similar draught of water, whether such unregistered vessel is inward or outward bound, from or to the port of Philadelphia.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the wardens of the port shall determine the compensation due to Garret Hulschamp, for the service he hath performed in sounding the channel west of Tinicum bar, and fixing the five buoys necessary for directing the vessels detained under quarantine, in passing into and out of the road where quarantine is performed, and for taking up, refitting and replacing the said buoys for one year, or such longer time as the said Garret Hulschamp hath performed that service; and the said wardens are hereby authorized and required to certify to the board of health the amount of the monies due to the said Garret Hulschamp, for the services already performed; and the board of health are hereby authorized and required to pay the sum so certified, out of the funds allotted for the support of that institution; and at all times hereafter the board of health may contract with some suitable person to fix, remove and replace the buoys; and the said board shall furnish all such apparatus

that may be found necessary, and pay the expense as aforesaid.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 16.
Note (1). Chapter 2369, *Supra*, this volume, p. 411.

CHAPTER MMDV.

A SUPPLEMENT TO THE ACT, ENTITLED, "AN ACT TO ALTER AND AMEND THE ACT, ENTITLED, "AN ACT TO REGULATE THE GENERAL ELECTIONS WITHIN THIS COMMONWEALTH." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That so much of the sixth section of the act⁽¹⁾ to which this is a supplement, as prevents the judges and inspectors from receiving daily wages, be and the same is hereby repealed and made null and void.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 17.
Note (1). Chapter 2020; 16 Statutes at Large, p. 163.

CHAPTER MMDVI.

AN ACT FOR ANNEXING PART OF LUZERNE COUNTY TO THE COUNTY OF LYCOMING.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all that part of Luzerne county shall be, and hereby is annexed to Lycoming county, which lies west of the following lines, to wit: Beginning at the east side of the east branch of Susquehanna, on the line between Pennsylvania and New York, at such place that from thence a due south line will strike the north-eastern corner of Clavarack township; thence by the line of the same township about a south-west course, crossing the said east branch, to the north-west corner of the said township; thence by the

south-west side of the same to the south-west corner thereof, and from thence by a due west line to the line now separating the counties of Luzerne and Lycoming.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the authority and jurisdiction of the courts, and of the civil officers of the county of Lycoming, shall be and hereby are extended over the parts so annexed to Lycoming county as aforesaid, as fully and effectually as if such parts had remained in the county of Lycoming from its first erection, and the powers of the courts, and of the civil officers of Luzerne county, shall cease in the parts so annexed, saving the determination of suits, if any, which may respect such part, which may now be pending in the said courts; and all taxes hereafter to be laid in the part so annexed, shall be paid into the treasury of Lycoming county, and the said part so annexed shall be under the like control and authority of the commissioners of Lycoming county, as the other parts of the said county are subject to; and all elections shall be held at the usual places of elections; but no inhabitant of the parts so annexed to Lycoming county, shall be entitled to vote in Luzerne county; and in cases where any of the inhabitants of the parts so annexed to Lycoming county, shall be separated from their usual place of election, they shall, if otherwise duly qualified, give their votes at the place nearest to their residence where an election is held, in the county of Lycoming, or part so annexed to the same, and all returns of elections in the part so as aforesaid annexed, shall be made to the county town of Lycoming, as is usual in the other districts in the county.

Approved April 2, 1804. Recorded in L. B. No. 10, p. 17.

CHAPTER MMDVII.

AN ACT DECLARING PART OF BIG FISHING CREEK AND CATTEWISSI CREEK, IN THE COUNTY OF NORTHUMBERLAND, PUBLIC HIGHWAYS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, Big Fishing creek, in the county of Northumberland, from the mouth of little Fishing creek up to Jonathan Colly's mill, and Cattewissi creek, in the county aforesaid, up to Cherington's mill, be and the same are hereby declared public highways, for the passage of rafts, boats or other vessels; and it shall and may be lawful for the inhabitants and others desirous of using the navigation of said creeks, to remove all natural and artificial obstructions which may be in the same, excepting dams for mills or other water-works, and also to erect such slopes at the mill-dams now built in the aforesaid creeks, as may be necessary for the passage of rafts, boats or other vessels: Provided, such slopes be so constructed as not to injure the works of said dams: And also, that any person or persons owning, or possessing lands on said creek, shall have liberty to erect any dam or dams across the same, agreeably and subject to all the restrictions and provisions of an act of the general assembly of this commonwealth, passed the twenty-third day of March one thousand eight hundred and three, entitled "An act to authorize any person or persons, owning lands adjoining navigable streams of water declared public highways, to erect dams upon such streams, for mills and other water-works."⁽¹⁾

Approved April 3, 1804. Recorded in L. B. No. 10, p. 18.

Note (1). Chapter 2353. Supra, this volume, p. 297.

CHAPTER MMDVIII.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR ESTABLISHING AN HEALTH OFFICE, AND TO SECURE THE CITY AND PORT OF PHILADELPHIA FROM THE INTRODUCTION OF PESTILENTIAL AND CONTAGIOUS DISEASES." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That no person or persons, goods,

wares, merchandise, bedding or clothing from any port or place at which any malignant or contagious disease (the small pox and measles excepted) prevailed at the time of their departure, or from on board any vessel in which any such disease existed while they were on board, shall enter or be brought into the city or county of Philadelphia, at any time between the first day of May and first day of November in any year, by land or water, without the permission of the board of health first had and obtained, under the penalty of any sum not exceeding five hundred dollars, for each and every offense, and the forfeiture of all such goods, wares, merchandise, bedding and clothing, to be recovered and appropriated as directed by the nineteenth section of the act⁽¹⁾ to which this is a supplement.

Section II. And be it further enacted by the authority aforesaid, That whenever the board of health shall receive information that any malignant or contagious disease (the small pox and measles excepted) prevails in any port or place within the United States, or on the continent of America, they shall make diligent enquiry concerning the same, and if it shall appear that the disease prevails as aforesaid, all communication with such infected port or place, shall be subject to such control and regulations as the board of health may from time to time think proper to direct, and publish, in one or more of the newspapers published in the city of Philadelphia, and thereupon every person or persons, and all goods, wares, merchandise, bedding and clothing, from such infected part or place, and having entered or been brought into the city or county of Philadelphia, contrary to such regulations, shall be subject to the penalties and forfeitures provided by the first section of this act; and all vessels from such port or place, and bound to the port of Philadelphia, shall stop at the lazaretto and be proceeded with in the same manner, and under the same penalties and forfeitures as are also provided in cases of vessels coming from foreign ports; and every person or persons having entered, or been brought into the city, or county of Philadelphia, from such infected port or place aforesaid,

shall also be conveyed by any person authorized by the said board, to such place, for purification, as the said board may appoint or direct for that purpose, and be there detained at the pleasure of the board, any time not exceeding twenty days, and at the expense of such person; and if the said board shall have cause to suspect that any person or persons at the time within the city and county of Philadelphia, have been at such infected port or place, since such disease prevailed at such port or place, and within fifteen days next preceding, the said board may lawfully require such person or persons to render satisfactory proof of their place or places of abode during the said period; and if such person or persons neglect or refuse to render such proof, or fail in proving their residence, other than at such infected port or place, every such person shall be dealt with by purification and detention, as persons coming from such infected port or place.

Approved April 3, 1804. Recorded in L. B. No. 10, p. 18.

Note (*). Chapter 2386. Supra, this volume, p. 447.

CHAPTER MMDIX.

AN ACT TO AUTHORIZE THE PROPRIETOR OR PROPRIETORS OF THE
CONEWAGO CANAL TO RECEIVE A TOLL FROM THE BOATS, RAFTS
AND VESSELS PASSING THE SAME.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the proprietor or proprietors of the Conewago canal shall keep and maintain, in good order and repair, the said canal, locks and appurtenances, and shall employ a skillful person or persons to superintend the same, and assist all and every person who may have occasion to pass and repass the said canal, with boats, vessels, rafts or crafts, of such dimensions as are capable of being received in the same, to wit, not exceeding eighty feet in length, and twelve feet in breadth, and not drawing more than three feet and an half of water, at all times hereafter, unless when the passage

shall be rendered impracticable by ice, or shall be damaged or obstructed by freshets, and during such reasonable time as may be necessary for removing such obstructions and making repairs.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the proprietor or proprietors of the said canal, their agent or agents, to receive from the manager or owner of each boat, raft, vessel or craft, the sum of fifty cents for each passage up or down the said canal and locks, for every boat, raft, vessel or craft, having so passed; and in case of non-payment, the said proprietor or proprietors, agent or agents as aforesaid, may distrain on any utensil, or part of the cargo or property found on board such boat, vessel, raft, or craft, as is usual for rent, rendering the overplus, if any, after payment of toll and costs to the owner: Provided, always, that not more than half toll shall be charged on any canoe passing up or down the said canal and locks.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That in case any boatman, raftman, skipper, or person conducting any vessel or craft, who shall have paid or tendered the toll as aforesaid, shall be refused a passage either up or down the said canal, at any reasonable time of the day, to wit, between sun rising and sun setting, when the canal and locks shall be in repair, and free from ice or other obstructions as aforesaid, such boatman, raftman, skipper or other person, conducting such boat, vessel, raft or craft, not exceeding the dimensions aforesaid, may apply to any justice of the peace on either side of the river Susquehanna, who shall, on complaint as aforesaid made and substantiated, by oath, issue process, to bring the proprietor or proprietors of the said canal, or their tenant or tenants, agent or agents so refusing, before him, who on their appearance, or upon proof of the due service of the process, if he or they do not appear, shall proceed to hear the complaint or complaints of such boatman, raftman, skipper, or person conducting any craft or vessel as aforesaid; and if the said complaint or complaints shall be well founded, he shall give

judgment in favor of such boatman, raftman, skipper or other person conducting any craft or vessel, for twenty dollars for every boat, vessel, raft or craft which shall be refused a passage as aforesaid; and if not paid on the passing of such judgment, the justice shall issue an execution for the same, directed to the proper officer; for the satisfaction of which all the property of the said proprietor or proprietors, their tenant or tenants, agent or agents, which may be found on the premises, appurtenant to the said canal, shall be liable: Provided always, that such suit or suits shall be brought within thirty days after such refusal of passage as aforesaid.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whosoever shall wilfully and knowingly do any act or thing whatsoever, whereby the said navigation, or any lock, gate, engine, machine, or device thereto belonging, shall be injured or damaged, or shall commit any wilful trespass, or take, carry away, or conceal any engine, device, machine, or instrument, used in or about the said canal and locks, or shall of their own accord, open or cause the said locks or gates to be opened, or attempt so to do, or to pass or repass the same, without the knowledge and consent of the superior, tenant, or manager of the said canal and locks, he she or they so offending, shall forfeit and pay to the said proprietor or proprietors, their tenant or tenants, agent or agents, fourfold the cost and damages by him or them sustained, by means of such known and wilful act, together with costs of suit, to be recovered as debts of equal amount are or may be by law recoverable.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That if the said canal and locks shall be out of repair, so as not to admit the passage of boats, vessels, rafts, or crafts as aforesaid, to pass up and down the same, for the space of one month, or shall neglect to keep a person or persons there to open and shut the said locks, the proprietor or proprietors, their tenant or tenants, agent or agents, shall be liable to a fine of one hundred dollars for every month the said canal and locks shall be out of repair, or neglect to employ such person or persons as aforesaid, to be re-

covered in any court of quarter sessions of the proper county; one moiety to the prosecutor, and the other moiety to the use of the commonwealth, and moreover shall be liable to be prosecuted anew, under like penalties, at every subsequent court of quarter sessions, as long as the said canal and locks continue out of repair: Provided always, that the said proprietor or proprietors, their tenant or tenants, agent or agents, shall not be liable to said penalty if the said canal or locks become out of repair by any unavoidable accident, and reasonable diligence has been used to make such repair.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the right herein granted to the proprietor or proprietors of the Conewago canal, to receive toll, shall continue and be in force from the passing of this act, for nine years, and from thence to the end of the next session of the legislature, and no longer.

Approved April 3, 1804. Recorded in L. B. No. 10, p. 20.

CHAPTER MMDX.

AN ACT TO AUTHORIZE AND REQUIRE THE STATE TREASURER TO RECEIVE THE INTEREST ON FEDERAL STOCK, THE PROPERTY OF THIS COMMONWEALTH, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the state treasurer be, and he is hereby authorized and required, from time to time, for the use and on behalf of the state, to receive the interest at the treasury of the United States or elsewhere, already accrued, or hereafter to accrue, on the certificates of debt of the United States, the property of this state, whether held in the name of the late, or the present comptroller general, or in the name of the commonwealth of Pennsylvania, and place the same to the credit of the state.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That whenever it shall appear to

the state treasurer, that the interest accrued, or to accrue, on the said stock, can be more conveniently and with less expense to the state, received at the office of commissioners of the treasury in Philadelphia (commonly called commissioners of loans) or at any other office, subordinate to the United States treasury, than at the treasury itself, it shall be the duty of said state treasurer, and he is hereby authorized and required, to obtain a transfer of said stock from the books of the treasury, to those of the commissioner of loans at Philadelphia, or to any office subordinate to the United States treasury; or if circumstances require it to retransfer said stock to the books of said treasury; and so to do as often as to him, the said state treasurer, may seem expedient, or be for the benefit of the state.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That all the certificates of funded debt of the United States, which may hereafter be received as the property of this state, shall be taken in no other name, but in the name of the commonwealth of Pennsylvania, and the interest accrued, or hereafter to accrue, shall only be received by the state treasurer in manner aforesaid, and the stock be transferable by him alone, and in no other manner than as aforesaid, except in such cases, when a transfer has been or hereafter may be specially provided for by law.

Approved April 3, 1804. Recorded in L. B. No. 10, p. 21.

CHAPTER MMDXI.

AN ACT AUTHORIZING THE STATE TREASURER TO TRANSFER TO CERTAIN INDIVIDUALS THE STOCK HELD BY THE STATE FOR THEIR USE IN THE LOAN OFFICE OF THE UNITED STATES.

Whereas by virtue of the powers vested in the treasurer of the commonwealth, under certain acts of assembly, passed the thirtieth day of September, one thousand seven hundred and ninety-one,⁽¹⁾ the fifth day of March one thousand seven hundred and ninety-four,⁽²⁾ and the fourteenth day of April one thousand seven hundred and ninety-four,⁽³⁾ he subscribed

in the name of the commonwealth certain continental certificates which had been received from the United States in exchange for new loan certificates, stated to have been lost by Sarah Caldwell, John Thompson, Mary Beere, James Steene, Charles West, Thomas Butler, and Henry Brown, to a loan opened by congress under the act of the fourth day of August one thousand seven hundred and ninety, for the benefit of domestic creditors, in trust for the use of said persons: And whereas under certain other acts, passed the twenty-ninth day of March one thousand eight hundred and two,⁽⁴⁾ and the twenty-ninth day of March one thousand eight hundred and three,⁽⁵⁾ a large part of said stock thus held in trust was transferred and paid over to Thomas Leiper, as executor to the estate of Sarah Caldwell, deceased; and as the retaining of the residue can be of no further advantage to the state than as security against the said lost certificates, and may be a disadvantage to the aforesaid persons or their representatives, who may desire to invest the property in other funds, or place it in trade: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the state treasurer, for the time being, shall, when so required by persons properly authorized, transfer or cause to be transferred the original amount of stock of the United States, held in trust as aforesaid, and also the dividend of two per centum which the commonwealth has received thereon to the said John Thompson, Mary Beere, James Steene, Charles West, Thomas Butler, and Henry Brown, respectively, or their legal representatives, the said parties indemnifying the commonwealth against the reproduction of the certificates (stated to have been lost) in such manner and with such security as the governor shall direct and approve.

Approved April 3, 1804. Recorded in L. B. No. 10. p. 22.

Note (1). Chapter 1591; 14 Statutes at Large, p. 168.

Note (2). Chapter 1718; 15 Statutes at Large, p. 17.

Note (3). Chapter 1738; 15 Statutes at Large, p. 38.

Note (4). Chapter 2269. Supra, this volume, p. 105.

Note (5). Chapter 2371. Supra, this volume, p. 431

CHAPTER MMDXII.

AN ACT TO ENABLE JAMES WALLIS TO OBTAIN A TITLE TO A LOT OF LAND IN THE TOWNSHIP OF CHARLESTOWN, AND COUNTY OF CHESTER.

Whereas it has been represented to the legislature, that James Wallis did purchase of Llewellyn Davis a lot of land, containing about one acre and sixty-five perches, situate in the township of Charlestown, in the county of Chester, and hath actually paid the full consideration for the same, according to the terms of an agreement made in the lifetime of the said Llewellyn Davis, who is since dead, by reason whereof he is deprived of the means of obtaining a title thereto; and as no written contract was made respecting the premises, he therefore prays the legislature to authorize the administrator and administratrix of the said Llewellyn Davis to execute a deed to him the said James Wallis, his heirs and assigns: And whereas the said administrator and administratrix, by their certificate annexed to said petition, mutually concur in the justice and propriety of the measure: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the administrator and administratrix of the said Llewellyn Davis, deceased, be and they are hereby authorized, on behalf of the said James Wallis, his heirs and assigns, to sell and convey the lot of land aforesaid, agreeably to the buts, boundaries and terms of the agreement aforesaid; Provided always, that nothing herein contained shall be deemed or construed to bar or defeat any other person or persons, bodies politic or corporate, of any right, title, interest, claim or demand which they may have in or to the said lot or piece of land or any part thereof.

CHAPTER MMDXIII.

AN ACT TO ENABLE PERSONS APPOINTED TO OFFICES OF PUBLIC TRUST TO RECOVER OFFICIAL DOCUMENTS APPURTENANT TO THE SAID OFFICES FROM PERSONS DETAINING THE SAME.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That in all cases where any person has been or hereafter shall be appointed to any office of public trust or employment, it shall be his duty, and it is hereby enjoined upon him to call upon the person or persons who held the offices immediately before his appointment, or upon the heirs, executors or administrators of such person or persons, and receive from him or them all records, books, draughts, plans, papers, seals or other official documents, which to such office or appointment belonged, or of right appertained.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That if the person or persons in whose hands or possession any such records, books, draughts, plans, papers, seals or other official documents shall or may remain, shall refuse to deliver up the same, upon the reasonable request of any person legally commissioned to such office or appointment, the said officer shall forthwith apply to a justice of the peace, who shall issue process for such person or persons so refusing, and shall cause them, either by sufficient bail or commitment, to appear at the next court of quarter sessions for the proper county, there to be proceeded against by way of indictment for the offense aforesaid.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That every person legally convicted by verdict of a jury, of detaining from any person duly commissioned to any office or appointment, any records, books, draughts, plans, papers, seals or other documents, to such office or appointment belonging, or in any wise appertaining

after reasonable demand made, the court before whom such verdict is given, shall sentence such person to be committed in close custody, in the jail of the proper county, there to remain without bail or main-prize, until such papers so found by verdict to be in his, her or their possession, shall be delivered to the proper officer, and shall moreover pay a fine not exceeding one hundred dollars; one half to be paid to the officer, from whom the documents were detained, and the other half to the use of the commonwealth.

Approved April 3, 1804. Recorded in L. B. No. 10, p. 24.

CHAPTER MMDXIV.

AN ACT DIRECTING THE REGISTER GENERAL AND STATE TREASURER TO EXHIBIT PRINTED STATEMENTS OF THEIR ACCOUNTS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall be the duty of the register general and state treasurer, respectively, to cause six hundred copies of their annual statements to be printed in the English language, and in lieu of the written statements heretofore made, deliver the same to the clerk of the house of representatives, on the fourth Monday of December annually, the expense of said printing to be paid out of any unappropriated monies in the treasury of this commonwealth, on warrants drawn by the governor, as in other cases: Provided, that the expense of the printing of the said statements shall not exceed twenty dollars per sheet.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That so much of any former law or laws as are hereby altered or supplied, be and the same are hereby repealed.

Approved April 3, 1804. Recorded in L. B. No. 10, p. 25.

CHAPTER MMDXV.

AN ACT FOR THE ELECTION OF CONSTABLES IN THE TOWNSHIP OF
PITTSBURGH.

Whereas the citizens of Pittsburgh township have represented to the legislature, that they labor under great inconveniences for the want of constables in said township, there being none elected or appointed for two years past in consequence of doubts having arisen as to the legality of holding elections for constables, there being no officer to hold such election, or to make return thereof: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the electors of Pittsburgh township, consisting of the borough of Pittsburgh, shall annually on the fourth Monday of May, at the same place that they meet to choose borough officers, elect four reputable citizens in said township. It shall be the duty of the constable of the borough to hold the election, and return the names of the persons so elected to the next court of quarter sessions for the county of Allegheny; and the said court shall appoint two of them to be constables for the said township, and on the neglect or refusal of such person or persons elected in manner aforesaid, the court shall then proceed as directed by the seventeenth section of an act, entitled "An act for the recovery of debts and demands not exceeding one hundred dollars, before a justice of the peace, and for the election of constables, and for other purposes."⁽¹⁾

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That previously to the election for constables as aforesaid, it shall be the duty of the constable or constables of said township, to give notice of the same, by three or more written advertisements, put up at the market-house in the said borough, at least three days previously to said election; and if the said constable or constables, shall

refuse or neglect to give such notice, he or they shall forfeit and pay ten dollars for such offense, to be recovered as sums of equal amount are or may be by law recoverable; such fines to be applied to the use of the poor of the said township.

Approved April 3, 1804. Recorded in L. B. No. 10, p. 26.

Note (*). Chapter 2482. Supra, this volume, p. 752.

CHAPTER MMDXVI.

AN ACT TO DISSOLVE THE MARRIAGE CONTRACT BETWEEN THOMAS DEWEES AND MARY, HIS WIFE.

Whereas Mary Dewees, late Mary Kid, of the county of Montgomery, by her petition, hath represented to the legislature, that she was lawfully married to Thomas Dewees, in the month of June Anno Domini one thousand eight hundred and one; that within a few months after their marriage, he was convicted of forgery, in the court of oyer and terminer, in Berks county, and was sentenced to hard labor and imprisonment for a term of ten years; that after eighteen months imprisonment he was, at the solicitation of her friends, pardoned by the governor; that after remaining with her about two weeks after his liberation, he abandoned and left her in a destitute situation; and it appears by a copy of a record of the court of quarter sessions of the peace, and general jail delivery for the county of Allegheny, that at the said court holden the twenty-eighth day of December one thousand eight hundred and three, the said Thomas Dewees was legally convicted of aiding and abetting the passing of counterfeit money, and sentenced to five years imprisonment at hard labor: And whereas it appears to the legislature, that under such circumstances the unfortunate woman ought to be released from any connection with a character apparently so irrevocable: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the marriage contract be-

tween Thomas Dewees and Mary his wife, late Mary Kid, be and the same is hereby declared to be null and void, and they are hereby declared to be separated, set free and totally discharged from the matrimonial contract, and from all duties and obligations arising therefrom, as fully, effectually, and absolutely, as if they had never been joined in matrimony, any law, custom or usage to the contrary notwithstanding.

Approved April 3, 1804. Recorded in L. B. No. 10, p. 26.

CHAPTER MMDXVII.

AN ACT TO AUTHORIZE ALEXANDER M'INTIRE TO ERECT A TOLL BRIDGE OVER FRENCH CREEK.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Alexander M'Intire, his heirs and assigns, to erect, build, maintain and support a good and substantial bridge over and across French creek, on the line of direction where a road laid out from the Block-house, in the town of Meadville, to the outlet of Conneaut lake crosses the same, in Crawford county; and the property of said bridge, when built, shall be and the same is hereby vested in the said Alexander M'Intire, his heirs and assigns forever, and the said Alexander M'Intire, his heirs and assigns, may demand and receive toll from travellers and others, not exceeding the following rates, to wit: For every coach, landau, chariot, phaeton or other pleasurable carriage, ten cents for each horse drawing the same; for every wagon or cart, eight cents for each horse drawing the same; for every empty wagon or cart, five cents for each horse drawing the same; for every sleigh or sled, five cents for each horse drawing the same; for a single horse and rider, five cents; for every horse, four cents; for every foot passenger, one cent; for every head of horned cattle, two cents; for sheep or swine at the rate of half a cent each; and all carriages which shall be drawn by oxen, or partly by oxen and partly by horses, two oxen shall

be estimated as equal to one horse: Provided always, nevertheless, that nothing in this act contained shall extend to authorize the said Alexander M'Intire, or any other person, to erect a bridge in the manner in this act before mentioned, on any private property, without the consent of the owner thereof, or to erect the same in such manner as in any way to interfere with, injure or obstruct the navigation of the said creek, or the passage over the ford across the same, near where the said bridge may be erected: And provided, that previously to the erection of said bridge the court of quarter sessions and grand jury at Crawford county, shall approve thereof.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That if the said Alexander M'Intire, his heirs and assigns, shall not proceed to carry on the said work within one year after the passing of this act, or not within three years complete the same, according to the true intent and meaning of this act; or if at any time after the said bridge is completed, it is suffered to be out of repair, so as to be impassable for horses and wagons, for the space of twelve months, then and in either of those cases all and singular the rights, liberties, privileges and franchises hereby granted to the said Alexander M'Intire, his heirs and assigns, shall revert to this commonwealth.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That if the said Alexander M'Intire, his heirs and assigns, shall neglect to keep the said bridge in good and perfect order and repair, for the space of five days, and information thereof shall be given to any justice of the peace of the county, such justice shall issue his precept, directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the said bridge; of which said meeting notice shall be given to the said Alexander M'Intire, his heirs or assigns, and the said justices shall, at such time and place, by oaths or affirmations of the said freeholders, inquire whether the said bridge is in good and perfect order and repair as aforesaid; and if the said bridge shall be found by the said inquisition not to be in good order and repair, accord-

ing to the true intent and meaning of this act, he shall certify the same, and send a copy of the inquisition to the said Alexander M'Intire, his heirs or assigns, and from thenceforth the said tolls hereby granted shall cease to be demanded, paid or collected, until the defective part or parts of the said bridge shall be put in good and perfect order and repair.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That whenever the court of quarter sessions and grand jury, in concurrence with the commissioners of said county, shall think proper that the said bridge should become free, then the commissioners of said county, together with the court, shall choose four judicious persons, three of whom shall be chosen by the commissioners, and one by the court, together with three other such persons, to be chosen by the said Alexander M'Intire, his heirs or assigns; and the persons so chosen as aforesaid, shall proceed to estimate the value of the said bridge, and a sum agreed upon by a majority of them shall be reported to the next court of quarter sessions; and if the court approve the same, the said commissioners shall draw a warrant in favor of the said Alexander M'Intire, his heirs or assigns, on the treasury of said county, for the amount of the said sum, and on payment or tender thereof, the said bridge shall be free; but if the said Alexander M'Intire, his heirs or assigns, shall at any time, on reasonable notice, refuse or neglect to choose three persons, in the manner hereinbefore mentioned, the said commissioners may proceed with the persons by them and the court so appointed, *ex parte*, in making the valuation, and the same proceedings shall be thereupon had as if the said Alexander M'Intire, his heirs or assigns, had chosen three persons in the manner hereinbefore mentioned.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That all persons attending divine worship on Sabbath days, or funerals, at any time, shall have liberty to pass and repass over said bridge, toll free; and also all paupers shall have liberty to pass and repass the said bridge toll free.

CHAPTER MMDXVIII.

AN ACT TO PROVIDE FOR THE INSPECTION OF GROUND BLACK OAK BARK INTENDED FOR EXPORTATION.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first day of June next, no ground black oak bark shall be exported from the port of Philadelphia, until the same shall be inspected by a person to be appointed by the governor of this commonwealth, and who, before he enters upon the duties of his office, shall take an oath or affirmation before the mayor or one of the aldermen of the city of Philadelphia, faithfully and impartially to do and perform the duties assigned to him by this act; and that he shall not directly or indirectly be concerned in buying, selling or shipping ground bark.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That no ground black oak bark, the produce of the United States, shall be shipped from the port of Philadelphia, except such as, in the opinion of the inspector, shall be shaved clean from the ross or outside bark, ground sufficiently fine, and be free from damage by wet, mould, or otherwise, well packed, in good and sufficient casks, having at least twelve hoops thereon, together with lining hoops on each end well secured.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the bark intended for exportation, shall be put up and packed in casks, marked in plain and legible characters, first and second quality, as its quality and manufacture may merit, together with the word Philadelphia, and the name of the inspector; and no casks shall be so marked except the same shall be found free from all mixture with other bark, tan, or extraneous matter, from damage by wet, mould or otherwise.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if there shall be found in any cask containing ground black oak bark, any mixture of different barks, or of tan, or other extraneous substance, or if it shall not be clean shaved from the outside bark or ross, and free from damage, the inspector shall condemn the same as unfit for exportation; and as a mark of such condemnation shall mark on each head, distinctly, with a marking iron, the letter C; and any person altering or defacing such mark with a view of evading this act, shall forfeit and pay for every such offense the sum of twenty dollars, one half to the person who shall prosecute for the same, the other half to the use of the poor of said city.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That every manufacturer of black oak bark for exportation, shall brand, in a legible manner, upon the head of each cask, his name at length, under the penalty of one dollar for each cask which shall not be so branded; and all ground bark intended for exportation, shall be taken at the expense of the owner, to such convenient place within the city or liberties of Philadelphia, as the inspector shall direct, there to be inspected by starting, unpacking or otherwise, as in the opinion of the inspector may be necessary; and it shall be the duty of the inspector to grant to the person depositing such bark, or to the owner thereof, a receipt or acknowledgment of the bark so deposited with him, in such form or manner as shall be a sufficient evidence of such deposit; but no such bark shall be delivered by the inspector to any person or persons until it shall have been inspected and approved of or condemned.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the inspector shall be entitled to receive, for every ton weight of bark which he shall inspect, three dollars; one half of which sum to be paid by the seller, the other half by the buyer; and such reasonable expense as may accrue for cooperage, on account of any deficiency in the casks, shall be paid over and above by the

seller, and it shall be the duty of the inspector to weigh each cask, and to furnish the owner with an invoice, specifying the gross weight and the tare of each cask; which invoice shall be signed by him; and for every cask not exceeding ten hundred weight there shall be allowed eight pounds for draft; and the said inspector shall be further entitled to receive from the owner or owners of bark deposited with him for inspection, at and after the rate of six cents for each cask per week for storage, to be computed from the time when the inspection shall have been completed.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the inspector shall have power, by virtue of this act, to enter on board any ship or vessel lying within the port of Philadelphia, to search for any ground black oak bark put on board for exportation, without being previously inspected and marked as aforesaid; and if any person or persons shall resist or obstruct the said inspector, in making such search or examination, every person so obstructing or molesting the said officer, on conviction thereof before any competent tribunal, shall forfeit and pay the sum of one hundred dollars, and the person or persons who shall have shipped such bark, shall forfeit the same, together with twenty dollars for each cask so shipped, the one half to the use of the officer or person who shall prosecute therefor; the other half to the use of the poor of the said city: Provided, that nothing in this act contained shall be construed to prevent any person from selling bark which may be condemned for home consumption, or from shipping any oak bark unground.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if any owner of ground black oak bark, or other person concerned therein, shall be dissatisfied with the judgment given by the inspector in respect to the quality of such bark, such person shall be at liberty to choose one reputable citizen, and the inspector another, to judge and determine therein, and their determination shall be final; but if the persons so chosen shall disagree in opinion, the mayor of the city of Philadelphia, may appoint

an umpire, whose opinion shall be conclusive; but nothing in this act shall be considered as extending to liquid extracts from bark, or to any preparation thereof, for which a patent shall have been or hereafter may be, obtained from the United States.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That this act shall be and continue in force for three years, and until the end of the session of the legislature then next ensuing and no longer.

Approved April 3, 1804. Recorded in L. B. No. 10, p. 29.

CHAPTER MMDXIX.

AN ACT ERECTING CERTAIN ELECTION DISTRICTS, AND MAKING ALTERATIONS IN OTHER DISTRICTS, IN CERTAIN COUNTIES WITHIN THIS COMMONWEALTH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That until another public school-house shall be erected in Mifflintown, the electors of Fermanagh and Milford townships, in the county of Mifflin, shall hold their elections in the school-house now occupied by David Steele, in Mifflintown aforesaid.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the electors residing within the district of Cumberland valley township, in the county of Bedford, shall from and after the passing of this act, hold their elections at the house now occupied by John M'Coy, in the township of Cumberland valley aforesaid, any law to the contrary notwithstanding.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That all that part of West Caln township, in the county of Chester, that lies north of what is called Culbertson's road, to where it intersects the old Lancaster road, be and the same is hereby annexed to the

eighth election district in the said county, and the electors residing within the said part of West Caln township, shall vote at the place appointed by law within the said district to which they are annexed.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, that part of the township of Armstrong, in the county of Indiana, which lies north of the following lines, to wit: Beginning at the north-west boundary line of said township, near to and including James M'Clanahan's farm, on Crooked creek; thence a straight line to the south-east boundary line of said township, and including the dwelling house of Adam Pilson, shall be a separate election district, and the electors thereof shall hold their elections at the house now occupied by Jacob Haas, in said district.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the following described part of Venango county, shall be a separate election district, to wit: Beginning on the verge of Allegheny river, where the line dividing the counties of Warren and Venango crosses the same; thence down the said river to the mouth of Oil creek; thence up Oil creek to the place where a line extending south from the west end of a tract of land, surveyed in the name of Andrew Cress or Carson, crosses the same; thence north to the line dividing the counties of Crawford and Warren from the county of Venango; thence east along the said line to the place of beginning, and the electors thereof shall hold their elections at the house now occupied by Thomas Gott, and hereafter to be known by the name of North Irwin district.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act the township of Londonderry, in the county of Dauphin, shall be a separate election district, and the electors thereof shall hold their elections at the house now occupied by Robert Davidson, in Palmtown, in the said township.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act the township of Toby, in the county of Armstrong, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by Abraham Stanford, in said township, any law or laws to the contrary notwithstanding.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the township of Tioga, in the county of Lycoming, shall be a separate election district, and the electors thereof shall hold their elections at the house now occupied by Thomas Berry, in said township.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act the electors of Moon township, in Allegheny county, shall hold their elections at the house now occupied by John Bryan, sen. in said township.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, Robinson township, in Allegheny county, shall be erected into a separate election district, and the electors thereof shall hold their elections at the house now occupied by William Marks, in said township.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act the fifth district, in Butler county, shall be erected into a separate election district, and the electors thereof shall hold their elections at the house now occupied by Alexander Ramsay, in said district.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act the township of Middlesex, and that part of Buffalo township annexed to Middlesex township, in Butler county, shall be erected into a separate election district, and the electors thereof shall hold their elections at the house now occupied by John Neighley, in the town of Butler.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That from and after the

passing of this act the second district, in Butler county, shall be erected into a separate election district, and the electors thereof shall hold their elections at the house now occupied by Alexander Ramsey, in said district.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the sixth district, in Butler county, shall be erected into a separate election district, and the electors thereof shall hold their elections at the house now occupied by Washington Porter, in said district.

Approved April 3, 1804. Recorded in L. B. No. 10, p. 31.

CHAPTER MMDXX.

A SUPPLEMENT TO THE ACT, ENTITLED, AN ACT FOR LAYING OUT AND KEEPING IN REPAIR THE PUBLIC HIGHWAYS WITHIN THIS COMMONWEALTH AND FOR LAYING OUT PRIVATE ROADS. (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the court of quarter sessions of the county of Philadelphia, on being petitioned to grant a view of or for opening any public road, street, lane or alley, within the township of the Northern Liberties, or the district of Southwark, shall have power, and by virtue of this act are directed and required, as often as they find it needful, in open court, to order and appoint twelve discreet and reputable freeholders, neither of whom shall reside or own real estate, in the township or district aforesaid, who being first sworn or affirmed, shall, together with the commissioners of the county for the time being, or a majority of them, view the ground proposed for such road, street, lane or alley; and if they, or any ten of them view the said ground, and any seven of the actual viewers, exclusive of the county commissioners, agree that there is occasion for such road, street, lane or alley, they shall proceed to lay out the same, as agreeable to the desire of the petitioners as may be, having

respect to the best ground for such road or street aforesaid, and the shortest distance, in such manner as to do the least injury to private property, and shall make report thereof, stating particularly whether they judge the same necessary for a public road, street, lane or alley, together with a plot or draft thereof, and the courses, distances and references to the improvements through which it may pass, to the next court of quarter sessions; and if then and there the court aforesaid, shall approve of the same, it shall, at the next court thereafter be entered on record, and thenceforth shall be taken, deemed and allowed, to be a public road, street, lane, or alley, compensation being first made to the owner of the ground or other property, as hereinafter directed: Provided, that no road or street so laid out, shall, in any case exceed fifty feet in width.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That on the return of the viewers reporting in favor of laying out any road, street, lane or alley, or on application by petition, for the opening of any road, street, lane or alley as aforesaid, and the same being approved of by the court, the court at their next session thereafter, to which the report is returned, or petition presented, shall appoint twelve discreet and respectable freeholders, neither of whom reside or own real estate within the township or district aforesaid, who being first sworn or affirmed, shall enquire what damages the owner or owners of lands, house, houses or other property, shall or may sustain, by reason of the same, being taken, used and appropriated for the purpose aforesaid: Provided always, that it shall be the duty of the said freeholders, in assessing damages to consider the advantages which may accrue to the owner or owners of such house, houses or other property, by reason of laying out such road, street, lane or alley.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, upon the return of the valuation and assessment of damages aforesaid, for ground or other property taken and appropriated for public roads, streets, lanes or alleys, within

the township and district aforesaid; and the court of quarter sessions of the county of Philadelphia, having approved the same; the amount of damages awarded by the said viewers, shall be paid by the treasurer of said county, and the court shall direct the supervisor of the highways, or if within the incorporated part of the Northern Liberties, or of the district aforesaid, the superintendent, to stay the opening of such road, street, lane or alley, until the amount of the damages so awarded shall be fully paid and satisfied: Provided always, that unless the same shall be paid within one year next after the return made by the viewers, all such proceedings as afore said, shall be void and of no effect whatever.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That so much and no more of any act or acts, as are by this act altered and supplied, be and the same is hereby repealed.

Approved April 3, 1804. Recorded in L. B. No. X, p. 32.

Note (1). Chapter 2293. Supra, this volume, p. 151.

CHAPTER MMDXXI.

AN ACT FOR ASCERTAINING THE RIGHT OF THIS STATE TO CERTAIN LANDS LYING NORTH AND WEST OF THE RIVERS OHIO AND ALLEGHENY, AND CONEWANGO CREEK.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That applications of actual settlers for lands lying north and west of the rivers Ohio and Allegheny, and Conewango creek, under the act, entitled "An act for the sale of the vacant lands within this commonwealth," passed the third day of April one thousand seven hundred and ninety-two,⁽¹⁾ describing particularly the lands applied for and filed with the secretary of the land office, vouching such other requisites as provided for by the act of twenty-second of September one thousand seven hundred and ninety-four,⁽²⁾ entitled "An act to prevent the receiving any

more applications, or issuing any more warrants, except in certain cases, for any land within this commonwealth," shall, for two years, from and after the passing of this act, entitle the applicant, his heirs and assigns, to all the privileges and benefits that an original or vacating warrant would entitle them to, and on the trial of all suits brought, or to be brought, between warrantees and actual settlers, concerning lands situate as aforesaid, the actual settler shall be permitted to plead and make proof of his improvement and residence, as fully and with equal force and effect as if such settler had obtained a vacating warrant; but nothing in this act contained, shall be construed to impair any contract or agreement, nor to bar the legal or equitable claims of any person or persons to said lands, nor to release said lands from the conditions of settlement, residence, improvement, purchase-money and interest required by the aforesaid act of the third day of April one thousand seven hundred and ninety-two,⁽¹⁾ nor to the granting of any lands heretofore reserved or appropriated by law.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the governor be and he is hereby authorized to employ one or more able counsel, generally to attend to the interests of the state, in and to the aforesaid lands, in all suits already commenced, or which shall be ready for trial at the next April; or at any succeeding term in the circuit court of the United States, and to draw his warrant or warrants in favor of such counsel, for such sum or sums as may be thought proper, which shall be paid out of any unappropriated monies in the treasury of this commonwealth: Provided such sum or sums do not exceed one thousand dollars; and that the appearance and attendance of counsel as aforesaid, shall not be so construed as to acknowledge or give any further or additional power or jurisdiction, other than the courts have heretofore constitutionally possessed and exercised in the plea aforesaid.

Approved April 3, 1804. Recorded in Book X, page 34.

Note (*). Chapter 1624; 14 Statutes at Large, 232.

Note (*). Chapter 1784; 15 Statutes at Large, p. 205.

CHAPTER MMDXXII.

AN ACT FOR THE PUNISHMENT OF PERJURY, OR SUBORNATION OF PERJURY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That every person who shall commit perjury or suborn, or procure any person to commit perjury, by wilfully and falsely swearing or affirming, shall, upon being thereof convicted in any court of law within this commonwealth, forfeit and pay any sum not exceeding five hundred dollars, and suffer imprisonment, and be kept at labor during any term not exceeding seven years, at the discretion of the court before whom such conviction shall be had; and further, shall thereafter be disqualified from holding any office of honor, trust or profit in this commonwealth and from being admitted as a legal witness in any matter of controversy.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That so much of any law as is hereby altered or supplied, be and they are hereby repealed.

Approved April 3, 1804. Recorded in L. B. No. 10, p. 35.

CHAPTER MMDXXIII.

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSES AND SUPPORT OF GOVERNMENT FOR THE YEAR ONE THOUSAND EIGHT HUNDRED AND FOUR, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That for the support of government, and payment of the following debts and expenses of

the same, there be appropriated the following sums out of the funds of the state; that is to say, For the payment of the salary of the governor, the secretary and assistant-secretary of the commonwealth, with the contingent expenses of the executive department, eleven thousand five hundred and thirty-three dollars and thirty-three cents; for the judiciary department of the state, including contingent expenses, thirty-four thousand eight hundred and eighty-seven dollars and twenty-three cents; for the legislative department, including the pay of members, clerks, officers, and contingencies, fifty-eight thousand and seventy-five dollars and thirty-five cents; for the treasury department four thousand seven hundred and ninety-nine dollars and ninety-six cents; for the officers of the land-office three thousand nine hundred and ninety-nine dollars and ninety-six cents; for the pay of the clerks in the different offices, eight thousand eight hundred and ninety-nine dollars and ninety-six cents; for the payment of pensions, the sum of five thousand dollars; for the expenses of the militia, six thousand dollars; for the payment of certificates of unfunded debt, one thousand and forty-three dollars and seventy-two cents; the further sum of nine thousand dollars to discharge the contracts made for arms; to discharge the loan had from the bank of Pennsylvania, sixty thousand dollars, and two thousand four hundred dollars, the interest on the same to the first of April one thousand eight hundred and four; to discharge the balance of the appropriation of last year, for the redemption of certificates granted to Pennsylvania claimants, that appropriation being one hundred thousand dollars, and twelve thousand three hundred and fifty-four dollars and sixty-four cents, only being discharged, the sum of eighty-seven thousand six hundred and forty-five dollars and thirty-six cents; to discharge the salary of the agent to prevent intrusions by the act of the sixteenth of February one thousand eight hundred and one,⁽¹⁾ one thousand two hundred dollars; to discharge the interest on the lost certificates, five hundred dollars; to discharge the balance of an appropriation of twenty thousand dollars by act of the fourth of April one thousand eight hundred and three,⁽²⁾ for

new loan certificates, thirteen thousand six hundred and nineteen dollars and ninety cents; for the redemption of old state debts, estimated not to exceed in the current year, ten thousand dollars; to discharge the salary of the warden of the port of Philadelphia, one thousand two hundred dollars; to discharge the salaries of the adjutant-general and brigade-inspectors, four thousand seven hundred and seventy-eight dollars and seventy-eight cents; for discharging the contingent expenses, and meeting the general purposes and occasions of the commonwealth, the sum of twenty-two thousand and twenty-seven dollars and twelve cents; for the purchase and repair of ordinance for the use of the militia artillery, five thousand dollars; which different sums as aforesaid, amounting in the whole to the sum of three hundred and fifty-one thousand six hundred and ten dollars and sixty-seven cents, are hereby appropriated as aforesaid to the service of the current year.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the comptroller general is hereby enjoined and required forthwith to cause all delinquent debtors to the state to be called upon, and proceeded against, for the recovery of all such balances as are now due to the commonwealth, and to call on the commissioners of the different counties to collect the arrearages of state taxes which the respective commissioners are hereby authorized and required to do, and after having deducted any appropriation which may have been made in their respective counties, to pay the residue into the treasury of the state.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act it shall be the duty of the comptroller and register general, and they are hereby required, at least once in every year, to inspect and examine not only the treasurer's accounts with the bank of Pennsylvania and its branches, but also such books, papers and documents in the office of the state treasurer, as they may think necessary, respecting the receipts and expenditures of public monies, and also to examine the amount of cash reserved in the office of the treasury,

to meet occasional demands; and if the state treasurer shall refuse to exhibit his books, papers and documents, or the monies reserved in his office as aforesaid, he shall, for every such refusal, forfeit and pay the sum of two thousand dollars, to the use of the commonwealth, to be recovered as sums of equal amount are, or shall be, by law recoverable.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the comptroller general and register general be, and they are hereby enjoined and required, to prepare and report to the legislature, at their next session, a particular account of the expenditure of the balance of fifty-three thousand one hundred and seventy-eight dollars and fifty-four cents, of the appropriation for improvements, as appears by their report of last year.

Approved April 3, 1804. Recorded in Book 10, p. 35.

Note (*). Chapter 2182; 16 Statutes at Large, p. 542.

Note (*). Chapter 2395. Supra, this volume, p. 490.

CHAPTER MMDXXIV.

AN ACT DIRECTING THE MODE OF SELLING UNSEATED LANDS FOR TAXES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That in order to furnish the commissioners of the several counties within this commonwealth with information necessary for levying and collecting the several taxes which by law they are or may be directed and required to levy and collect, it shall be the duty of the deputy-surveyors of the several counties aforesaid, at any time upon the application of the said commissioners to make out (on oath or affirmation) a correct return to them of all the lands surveyed within their respective counties, whereof as deputy-surveyors they may have drafts, maps or plates, made by themselves or their predecessors in office, and of all the warrants or orders of survey to them directed, and not

yet executed, or of such of them as the said commissioners may require, which returns shall include a list of the number of acres contained in each survey or warrant, and of the names and surnames of the original warrantees, the waters on which the same is situate, the land contiguous thereto, and the township, if known, wherein the same may lie; for which returns the said deputy-surveyors shall receive from the county treasurer, on the order of the commissioners, four cents for each warrant or survey thus returned to the said commissioners; and every deputy-surveyor, who, when required, shall refuse or neglect to make such return, shall forfeit and pay for every such neglect or refusal one hundred dollars, to be recovered as other debts of equal amount are or may be by law recoverable; and the said county commissioners are hereby enjoined and required to provide and keep a suitable book or books, in which they shall cause to be entered the number of acres surveyed, the name of the original owner and boundaries, so far as it shall be known to them, of each tract mentioned in every such return which they have already received or may hereafter receive from any of the deputy-surveyors aforesaid.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That all unseated lands within this commonwealth, held by individuals, companies or bodies corporate, either by improvement, warrant, patent or otherwise, shall, for the purpose of raising county rates and levies, be valued and assessed in the same manner as other property; but the collection of taxes already laid, or that may hereafter be laid or assessed, on unseated lands, shall not be enforced by sale of such lands, until after the expiration of twelve months from and after the same shall have been assessed, and until notice be given by the commissioners of the proper county, for four weeks, in three of the daily newspapers of the city of Philadelphia, and in one other newspaper in or nearest to the county where such lands lie, that one or more than one year's tax is due upon the unseated lands within such county; and if any tax now due or that may hereafter become due as aforesaid, together with the

costs necessarily accrued thereon, shall, for the space of three months after such notice shall have been given, remain unpaid, then, in every such case, the said county commissioners shall issue their warrants, under their hands and seal of office, directed to the sheriff or coroner of the proper county, commanding him, after having given within his proper county, at least thirty days notice in one newspaper printed in such county, or if there be no newspaper printed in the county, then one printed nearest thereto, and by written or printed advertisements set up in at least three public places, one of which shall be at the court-house in said county, stating that the sale of unseated lands for arrearages of taxes will commence on a certain day, to make public sale of the whole or any part of such tracts of unseated lands as he may find necessary for the payment of the taxes due thereon, respectively, and of all costs necessarily accrued thereon, by reason of such delinquency, and to make and execute a deed or deeds, in fee simple, to the purchaser or purchasers of any unseated lands so sold, and the same in open court of common pleas of the proper county, duly to acknowledge; it shall also be the duty of said sheriff or coroner, to take from such purchaser or purchasers, bonds in his own name, with warrants of attorney annexed, for any surplus money that may remain after satisfying and paying the taxes and costs aforesaid, and the same bonds forthwith to file in the office of the prothonotary of the proper county, together with at least one attested copy of the advertisements, which shall so as aforesaid by him have been set up.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the said county commissioners to file in the prothonotary's office aforesaid, one at least of each of the newspapers in which they shall have published their general notice; which newspaper, so filed, together with the affidavit of at least one of the printers, that the aforesaid notice was published in the usual number of his papers, and the advertisement of the sheriff or coroner, filed as aforesaid, shall at all times there-

after, in any trial or law or in equity, respecting the validity of sales made by virtue of this act, be deemed and taken as sufficient evidence of legal notice having been given of the sales hereby directed to be made; and no action for recovery of said lands shall lie, unless the same be brought within five years after the sale thereof, for taxes as aforesaid: Provided always, that where the owner or owners of such lands sold as aforesaid, shall at the time of such sale be minor or minors, insane, and residing within the United States, five years after such disability is removed, shall be allowed such person or persons, their heirs or legal representatives, to bring their suit or action for recovery of the lands so sold; but where the recovery is effected, in such cases the value of the improvements made on the lands so sold, after the sale thereof, shall be ascertained by the jury trying the action for recovery, and paid by the person or persons recovering the same, before he, she or they shall obtain possession of the lands so recovered.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the bonds taken by the sheriff or coroner, for surplus monies, and filed as aforesaid, shall, from the date of the deed executed by him as aforesaid, bind as effectually and in like manner as judgments, the lands by him sold, into whose hands or possession soever they may come; and the owners of said lands, at the time of sale, or their heirs, assigns or other legal representatives, may, at any time within five years after such sales, cause actions to be entered on the docket of the said prothonotary, in the name of the sheriff or coroner, for the use of the said owners, their heirs or assigns, or other legal representatives; and if the monies mentioned or contained in such bonds, together with legal interest from the time it is demanded, be not paid within three months after such entry, execution shall issue forth with for the recovery of the same.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That sales of unseated lands, for taxes that are now due, or that may hereafter become due thereon, made agreeably to the directions of this act, shall be in law and equity valid and effectual, to all intents and

purposes, to vest in the purchaser or purchasers of lands sold as aforesaid, all the estate and interest therein, that the real owner or owners thereof had at the time of such sale, although the land may not have been taxed or sold in the name of the real owner thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That every tenant who may or shall occupy or possess any lands or tenements, shall be liable to pay all the taxes which during such occupancy or possession may thereon become due and payable; and having so paid such taxes, or any part thereof, it shall be lawful for him, by action of debt or otherwise, to recover said taxes from his landlord, or, at his election, to defalcate the amount thereof in the payment of the rent due to such landlord, unless such defalcation or recovery would impair any contract or agreement between them previously made.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the twenty-fifth section of the act for raising county rates and levies, passed the eleventh day of April one thousand seven thousand and ninety-nine,⁽¹⁾ and so much of any other act of assembly as is hereby altered or supplied, be and they are hereby repealed; but nothing in this act contained shall be construed to impair or in any wise affect the act, entitled "An act prohibiting the commissioners of the respective counties of this commonwealth from selling, for a limited time, unseated lands for taxes," passed the eighth day of February in the present year.⁽²⁾

Approved April 3, 1804. Recorded in L. B. No. 10, p. 37.

Note (1). Chapter 2095; Statutes at Large, p. 375.

Note (2). Chapter 2427. Supra, this volume, p. 566.

ACTS OF THE

GENERAL ASSEMBLY OF PENNSYLVANIA.

Passed at a Session which was begun and held at Lancaster on Tuesday, December 4th, 1804, and from thence continued until April 4th, 1805, (inclusive).

CHAPTER MMDXXV.

AN ACT TO REGULATE THE PAYMENT OF COSTS ON INDICTMENTS.

Whereas experience has proved, that the laws obliging the respective counties to pay the costs of prosecutions, in all criminal cases, where the accused is or are acquitted, have a tendency to promote litigation; inasmuch as they enable restless and turbulent people to harass the peaceable part of the community, with trifling, unfounded, or malicious prosecutions at the expense of the public: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first of November next, in all prosecutions, cases of felony only excepted, if the bill or bills of indictment shall be returned "ignoramus," the grand jury who returns the same shall decide and certify on such bill, whether the county or the prosecutor shall pay the costs of prosecution; and in all cases of acquittals, by the petit jury, on indictments for the offenses aforesaid, the jury trying the same shall determine, by their verdict, whether the county or the prosecutor, or the defendant or defendants, shall pay the costs of prosecution; and the jury so determining, in case they direct the prosecutor to pay the costs, shall name him or them in their return or verdict.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That whenever any jury shall determine, as aforesaid, that the prosecutor or prosecutors shall pay the costs, the court in which the said determination shall be made, shall forthwith pass sentence to that effect, and order him, her or them committed to the jail of the county until the costs are paid, unless he, she or they give security to pay the same within ten days.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That when a number of persons shall be charged and tried upon one indictment, such costs

shall be taxed, as if the name of one person only was contained in the said indictment; any law, usage or custom to the contrary notwithstanding.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That this act shall be and continue in force during the term of three years, and from thence to the end of the next session of the general assembly.⁽¹⁾

Recorded in L. B. No. 10, p. 45.

Note (1). See Chapter 2582. (Act March 28, 1805). *Infra*, this volume, p. 998.

IN THE HOUSE OF REPRESENTATIVES.

December 8th, 1804.

Mr. Thompson, the Secretary of the Commonwealth, being introduced, presented to the Chair a message from the Governor, which was read as follows, viz.

To the Senate and House of Representatives of the Commonwealth of Pennsylvania.

Gentlemen,

The bill, entitled, "An act to regulate the Payment of Costs on Indictments," which was presented to me near the close of the last session, has not been returned within three days after your present meeting, so that it is now become a law. I have directed it to be returned to the House of Representatives in which it originated.

THOMAS M'KEAN.

Lancaster, December 7th, 1804.

Extract from the journal,

MATTHEW HUSTON,

Clerk of the House of Representatives.

IN SENATE.

December 8th, 1804.

The Secretary of the Commonwealth presented a message from the Governor, which was read as follows, to wit:

To the Senate and House of Representatives of the Commonwealth of Pennsylvania.

Gentlemen,

The bill, entitled "An act to regulate the Payment of Costs on Indictments," which was presented to me near the

close of the last session, has not been returned within three days after your present meeting, so that it is now become a law. I have directed it to be returned to the House of Representatives in which it originated.

THOMAS M'KEAN.

Lancaster, December 7th, 1804.

CHAPTER MMDXXVI.

AN ACT FOR ERECTING A NEW ELECTION DISTRICT IN THE COUNTY OF CENTRE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, all Miles township, agreeably to the present boundaries thereof, including all that part of Sugar Valley which falls into Centre county, shall be an election district, to be called the sixth election district, and the electors thereof shall hold their general elections at the house now occupied by Nicholas Gast, in said district.

Approved January 8, 1805. Recorded in L. B. No. 10, p. 46.

CHAPTER MMDXXVII.

AN ACT ENLARGING THE BOUNDS OF THE NINTH ELECTION DISTRICT, IN THE COUNTY OF WASHINGTON.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the following bounds, in the county of Washington, from and after the passing of this act, shall be included in and annexed to Stephenson's election district, to wit: Beginning at the line between Washington and Green counties, on the ridge that divides the waters of

Ten-mile and Wheelen creek, near Jacob Bobbett's; thence along said line to the head waters of Hunter's Fork of Wheelen creek; thence down the same to the mouth thereof; thence down Wheelen creek to the state line; thence north along said line to Buffalo creek; thence up said creek to the mouth of Buck run; thence along the line that divides Buffalo and Donegal townships to Findley township; thence along the line that divides Findley and Buffalo townships to Morris township; thence along the line that divides Morris and Findley townships to the place of beginning; and the electors of the said district shall hold their general elections at the house formerly appointed by law.

Approved January 8, 1805. Recorded in L. B. No. 10, p. 47.

CHAPTER MMDXXVIII.

A SUPPLEMENT TO THE ACT, ENTITLED, "AN ACT TO INCORPORATE THE PHILADELPHIA BANK." (1).

Whereas the third section of the act to which this is a supplement, in the sixteenth and seventeenth articles thereof, imposes certain restrictions on the directors, relative to the dividends of the profits of said bank: And whereas by the fifth section of the said act, the said bank is bound to pass to the credit of the commonwealth of Pennsylvania, the sum of one hundred and thirty-five thousand dollars, as the gratuity to the state for the charter, which credit has accordingly been passed.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the debt incurred, on account of the gratuity aforesaid to the state, shall not be considered as impairing the capital stock of the bank, so far as to incapacitate the directors, at the periods indicated by law, from making dividends from and out of the ordinary profits; the restrictions in section the third, articles the six-

teenth and seventeenth of the said act notwithstanding. And the said directors are hereby authorized and required, gradually to restore the deficiency in the capital, occasioned by the said gratuity, by such reservations out of the ordinary profits of the bank, as they, from time to time, shall think expedient, just, and reasonable: Provided, that such restoration shall be fully accomplished and completed within seven years from and after the passing of this act.

Approved January 8, 1805. Recorded in L. B. No. 10, p. 47.

Note (1). Chapter 2451. Supra this volume, p. 675.

CHAPTER MMDXXIX.

A SUPPLEMENT TO AN ACT, ENTITLED, "AN ACT TO RAISE BY WAY OF LOTTERY, A SUM NOT EXCEEDING EIGHT THOUSAND DOLLARS, FOR THE USE AND BENEFIT OF THE MINISTER, WARDENS AND VESTRY, OF THE AFRICAN EPISCOPAL CHURCH OF ST. THOMAS, IN THE CITY OF PHILADELPHIA."

Whereas it has been represented to the Legislature, by the Minister, Wardens and Vestry of the Church of St. Thomas, in the city of Philadelphia, That John Inskeep, William Poyntell, John C. Stocker, Robert M'Mullen and William Richards, five of the commissioners named in an act of the Legislature of this State, bearing date the sixth day of February, one thousand eight hundred and four,⁽¹⁾ for the purpose of raising, by way of lottery, eight thousand dollars, have declined the duty enjoined on them by the said act: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That William Murdock, Joseph Benet Eves, Ephraim Clark, Peter Brown and Daniel Smith, be and they are hereby appointed commissioners, in the room of the said John Inskeep, William Poyntell, John C. Stocker, Robert M'Mullen and William Richards: And that the said William Murdock, Joseph Benet Eves, Ephraim Clark, Peter Brown and Daniel Smith, in conjunction with Samuel Wheeler and Thomas Cumpston, two of the commissioners

named in the act⁽¹⁾ to which this is a supplement, be and they are hereby authorized and empowered to carry the said act into execution, subject to the qualifications and restrictions contained therein: And in case of the death or resignation of any or either of the said commissioners, the survivors or any four of those who continue to act, are hereby authorized and empowered to do and perform all and every matter and thing mentioned and required in the said act.

Approved January 8, 1805. Recorded in L. B. No. 10, p. 48.
Note (1). Chapter 2422. Supra, this volume, p. 548.

CHAPTER MMDXXX.

AN ACT TO ERECT DONEGAL TOWNSHIP, IN THE COUNTY OF LANCASTER, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the township of Donegal, in the county of Lancaster, shall be a separate election district, to be called the tenth district, and the electors thereof shall hold their general elections at the house of Frederick Gelbaugh, in the village of Maytown, and township of Donegal; any law to the contrary notwithstanding.

Approved January 8, 1805. Recorded in L. B. No. 10, p. 49.

CHAPTER MMDXXXI.

AN ACT ESTABLISHING AN ACADEMY IN THE TOWN OF BELLEFONTE, IN CENTRE COUNTY.

Whereas by the ninth section of the act, entitled, "An act erecting parts of the counties of Mifflin, Northumberland, Huntingdon and Lycoming, into a separate county,⁽¹⁾" it is provided, that a portion of the proceeds of certain lots and

lands in and adjoining the town of Bellefonte, shall be vested in some productive fund, for the support of an academy or public school in the said county of Centre: And as it appears to be the wish and desire of the grantors of the lots and lands aforesaid, as well as of a number of the inhabitants of Centre county, that an academy may be established in the town of Bellefonte, and that the funds aforementioned may be transferred to trustees, who may be appointed to superintend said institution: And as the establishment of seminaries of learning, when properly conducted, is of the highest importance to the interests of society: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That there shall be established, and hereby is established, in the town of Bellefonte, in the county of Centre, an academy or public school, for the education of youth in the useful arts, sciences, and literature, by the name, style and title of "Bellefonte Academy."

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the first trustees of Bellefonte Academy shall consist of the following persons, viz. Henry R. Wilson, Minister of the Gospel; James Denlop, Roland Curtin and William Petrikin, Robert M'Clanahan and John Hall, of the town of Bellefonte; William Steward, Minister of the Gospel; Andrew Gregg and James Pottar, of Pottars township; James Duncan, John Hall and Jacob Hosterman, of Haines township; John Krider of Miles township; Thomas Ferguson, of Ferguson township; Jacob Taylor, of Half-Moon township; David Whitehill, of Patton township; Richard Miles and Robert Boggs, Joseph Miles and John Dunlop, of Spring township; William M'Ewen and Thomas M'Calmon, of Centre township; John Fearon and Matthew Allison and James Boyd, of Bald Eagle township; which said trustees, and their successors to be elected, as hereinafter mentioned, shall be and they are hereby declared to be, one body corporate and politic, by the name, style and title of the "Trustees of Bellefonte academy;" and, by the same name, shall have perpetual succession,

and shall be able to sue and be sued, plead and be impleaded, in all courts of record and elsewhere; and shall be competent and capable in law and in equity to take and hold to them and their successors, for the use of said academy, lands, tenements, hereditaments, goods and chattels of what kind, nature or quality soever, real, personal or mixed, by the gift, grant, bargain, sale, conveyance, assurance, will, devise or bequest of any person or persons whomsoever capable of making the same; and the same, from time to time, to grant, bargain, sell, demise, alien or dispose of for the use of said academy, and to erect such buildings as may be necessary; and generally to do all and singular the matters and things which shall be lawful for them to do for the well being of the said academy, and the due management and ordering the affairs thereof.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said trustees, and their successors, shall have full power and authority to use one common seal, and the same to break, alter and renew at their pleasure.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall hold their first meeting at the house of Benjamin Patton, in the town of Bellefonte, on the first Monday of May next after the passing of this act; any seven of whom shall constitute a quorum to transact any of the business of the said academy, particularly of making and enacting ordinances and by-laws for the government of the said academy; of electing trustees in the room of those who may be removed by death, resignation or otherwise; of electing and appointing masters and tutors for said academy; of agreeing with them for their salaries, and of removing them; of appointing a secretary, managers and other necessary officers, for taking care of the funds, and managing the concerns of the corporation; and determining and transacting all matters and things necessary to be determined and transacted by said trustees: Provided always, that no ordinance or by-law shall have any force which shall be contrary to the constitution or laws of this state or of the United States.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That all the by-laws, ordinances and proceedings of the said corporation, shall be fairly and regularly entered in a book to be kept for that purpose; and no misnomer of the said corporation shall defeat or annul any gift, grant, devise or bequest to the said corporation: Provided, the intent of the parties shall sufficiently appear on the face of the gift, grant, will or other writing, whereby any estate or interest was intended to pass to the said corporation; nor shall any disuser or nonuser of the rights, liberties, privileges, jurisdictions and authorities hereby granted to the said corporation, create or in any wise cause a forfeiture thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That no sale or alienation of the real estate of the said corporation, which shall have been made by the trustees, or their successors, bona fide, for a valuable consideration, in case the possession thereof pass immediately to the purchaser or purchasers thereof, and continue in him, her or them, his, her or their heirs or assigns, shall be invalidated for want of proving that seven of the trustees of said corporation consented to such sale or alienation, unless the same be controverted within the space of seven years, from and after the sale and delivery of such real estate to the purchaser or purchasers thereof.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That all the lots, lands and other property granted and conveyed to the trustees of Centre county, for the use and support of an academy or public school in said county, agreeably to the ninth section of the act, entitled, "An act for erecting parts of the counties of Mifflin, Northumberland, Lycoming and Huntingdon into a separate county," passed the thirteenth day of February, one thousand eight hundred, shall be and remain for the use, benefit and support of Bellefonte academy; and it shall and may be lawful for the trustees of said academy, to demand and receive the annual proceeds or income of the grant afore-

said, and to apply the same in paying or discharging the salary or salaries of a tutor or tutors in said academy.⁽²⁾

Approved January 8, 1805. Recorded in L. B. No. 10, p. 49.

Note (1). Chapter 2103; 16 Statutes at Large, p. 403.

CHAPTER MMDXXXII.

AN ACT TO ENABLE ISAAC JOHNSON AND ELIZABETH SPROGEL, GUARDIANS OF ELIZABETH SPROGEL THE YOUNGER, AND ANN SPROGEL, MINORS, TO SELL AND CONVEY CERTAIN REAL ESTATE.

Whereas it has been represented to the Legislature, that the personal estate of Elizabeth Sprogel, of the county of Philadelphia, widow, and of Elizabeth and Ann Sprogel her children, minors, is insufficient for the maintenance and education of the said Elizabeth and Ann, unless some part of the real estate is sold for that purpose: And whereas it appears, that a certain three-acre lot, situate in Poplar Lane, in the township of the Northern Liberties, in the county foresaid, (devised to the said Elizabeth Sprogel, the elder, for life; remainder to John Sprogel, Ludwick Sprogel, and the said Elizabeth and Ann Sprogel, in fee) is at present unproductive, and is moreover subject to yearly rent charge: And whereas the residue of their real estate is likely to be diminished in value, for want of repairs, which the circumstances of the said Elizabeth Sprogel, the elder, do not permit her to make; and the said John Sprogel and Ludwick Sprogel, (each of them being of full age) having, by affidavit and certificate from under their hands respectively, expressed and declared their consent, wish and desire that all their claim, right, title and interest, which they and each of them respectively have in and to the said three-acre lot, might, in common with the estate, right, title and interest of them the said Elizabeth and Ann, in and to the said three-acre lot, be disposed of and sold, and that the proceeds thereof be appropriated for the purposes aforesaid, in manner hereafter expressed: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Isaac Johnson and Elizabeth Sprogel, the elder, guardians of the said Elizabeth and Ann Sprogel, to grant, bargain, sell and convey, to the highest and best bidder, at public sale or outcry, after ten days previous notice given, all the estate, right, title and interest, of them the said John Sprogel, Ludwick Sprogel, Elizabeth Sprogel, the younger, and Ann Sprogel, of, in and to the said three-acre lot, with the appurtenances, and to apply the purchase money obtained therefor, to the necessary repairs and improvements of the residue of their real estate, and to the maintenance and education of them the said Elizabeth and Ann.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the land so sold and conveyed, shall be forever freed and discharged in the hands of the purchaser, his heirs and assigns, from all title, claim or estate, of the said John Sprogel, Ludwick Sprogel, Elizabeth Sprogel, the younger, and Ann Sprogel, and of all persons claiming or to claim by, from or under them, or either of them: Provided, that nothing in this act contained shall be so construed or understood, as to defeat or impair the title or estate of any person or persons, other than of the said John Ludwick, Elizabeth and Ann, or to make void, disannul or impair any contract or agreement for or concerning the premises: And provided also, that the said Isaac Johnson and Elizabeth Sprogel, the elder, shall give bond, with sufficient sureties, to the orphans' court of the city and county of Philadelphia, that they or the survivor of them, or the executors or administrators of such survivor, shall and will faithfully apply the purchase money received, to the necessary repairs and improvement of the remainder of the real estate aforesaid, and to the maintenance and education of the said Elizabeth Sprogel, the younger, and Ann Sprogel; and the residue thereof (if any there shall be) at the expiration of the minority of the said Elizabeth and Ann respectively, shall and will pay to them, or in case of the death of them, or either of them,

before she or they respectively arrive at the age of twenty-one years, to such person or persons as would have been entitled to said estate if it had remained unsold.

Approved February 1, 1805. Recorded in L. B. No. 10, p. 52.

CHAPTER MMDXXXIII.

AN ACT ERECTING THE TOWNSHIP OF FRANKLIN, IN FAYETTE COUNTY, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the township of Franklin, in the county of Fayette, shall be a separate election district, to be called the seventh district, and the electors thereof shall hold their general elections at the house now occupied by John Freeman, in said township; any law to the contrary notwithstanding.

Approved February 1, 1805. Recorded in L. B. No. 10, p. 54.

CHAPTER MMDXXXIV.

AN ACT AUTHORIZING THE GOVERNOR TO EMPLOY COUNSEL TO ATTEND TO THE INTERESTS OF THIS STATE, IN CERTAIN SUITS PENDING IN THE SUPREME COURT OF THE UNITED STATES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be and he is hereby authorised to employ one or more able counsel, to attend to the interests of this commonwealth, in and to certain lands lying north and west of the rivers Ohio and Allegheny, and Conewango creek, so far as the same are involved in certain suits or points of law, now pending in the Supreme Court of the United States; and to draw his warrant or warrants in

favor of such counsel, for such sum or sums as he may think proper, not exceeding in the whole six hundred dollars; to be paid out of any unappropriated monies in the treasury of this commonwealth: Provided always, that the appearance and attendance of counsel as aforesaid, shall not be construed to acknowledge any power or jurisdiction of said court in the plea aforesaid, other than said court has heretofore constitutionally possessed and exercised.

Approved February 1, 1805. Recorded in L. B. No. 10, p. 54.

CHAPTER MMDXXXV.

AN ACT TO RAISE, BY WAY OF LOTTERY, A SUM OF MONEY NOT EXCEEDING FIFTEEN HUNDRED DOLLARS, TO ASSIST IN DEFRAYING THE EXPENSES OF ERECTING ZION CHURCH, AND TWO SCHOOL HOUSES, IN THE TOWN OF WOMELSDORF, AND COUNTY OF BERKS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Nicholas Eckart, Henry Hirsh, George Ege, junior, Conrad Stuoeh, John Kaiss, John Weisser, and Daniel Graeff, be, and they are hereby appointed commissioners, to raise, by way of lottery, a sum of money not exceeding fifteen hundred dollars, to be by them applied in defraying the expenses of erecting Zion Church and two school houses, in the town of Womelsdorf, and county of Berks.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the commissioners, before they proceed to sell any tickets in said lottery, shall lay such scheme thereof before the governor as shall meet his approbation, and enter into bonds to him for the due performance of their duty in drawing the same; and each of them, before entering on the duties of his appointment, shall take and subscribe an oath or affirmation, diligently and faithfully to perform the duties hereby entrusted to him; and three or more of the said commissioners shall attend at the drawing of each

day, and, when the drawing shall be completed, they shall cause an accurate list of the fortunate numbers to be published in the Reading Eagle, and shall pay and discharge all prizes that shall be legally entitled thereto, within six months after the drawing is finished.

Approved February 1, 1805. Recorded in L. B. No. 10, p. 55.

CHAPTER MMDXXXVI.

AN ACT GRANTING A SUM OF MONEY TO THE TRUSTEES OF NORRISTOWN ACADEMY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the sum of two thousand dollars be, and the same is hereby granted, out of any unappropriated money which may be in the treasury of this commonwealth, to the trustees of the Norristown Academy; to be applied in erecting a suitable building for the accommodation of the said institution.

Approved February, 1805. Recorded in L. B. No. 10, p. 55.

CHAPTER MMDXXXVII.

AN ACT TO RAISE, BY WAY OF LOTTERY, A SUM NOT EXCEEDING THREE THOUSAND DOLLARS, FOR THE USE AND BENEFIT OF THE UNION ACADEMY AT DOYLESTOWN, IN THE COUNTY OF BUCKS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Andrew Dunlap, Christian Clamens, John Hough, Thomas Stewart, Hugh Meredith, Nathaniel Shewell and Josiah Y. Shaw, be, and they are hereby appointed commissioners to raise, by way of lottery, a sum of money not exceeding three thousand dollars, for the purposes of discharging the debts of the trustees of the Union

Academy at Doylestown, in the county of Bucks, and of enabling them to complete the building of the said academy.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners, before they proceed to sell any tickets in the said lottery, shall lay such scheme thereof before the governor as shall meet his approbation, and enter into bonds to him for the due performance of their duty, in selling the tickets, drawing the lottery, and paying the prizes; and each of them, before entering on the duties of his appointment, shall take and subscribe an oath or affirmation, diligently and faithfully to perform the duties hereby entrusted to him; and two of the said commissioners, at least, shall attend each day's drawing of the aforesaid lottery; and when the whole is completed, shall cause an accurate list of the fortunate numbers to be published in the newspaper printed at Doylestown, and in at least one of the newspapers of the city of Philadelphia.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners be, and they are hereby authorised to settle and adjust all accounts which may be exhibited by any person, or persons, legally employed in carrying this act into effect, and that all expenses, necessarily attending the same, shall be paid by said commissioners, out of the net proceeds of the said lottery.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months after publication as aforesaid, shall be considered as relinquished for the use and benefit of said academy.

Approved February 11, 1805. Recorded in L. B. No. 10, p. 56.

CHAPTER MMDXXXVIII.

A SUPPLEMENT TO AN ACT, ENTITLED, "AN ACT CONFERRING CERTAIN POWERS ON THE COMMISSIONERS OF BERKS COUNTY, AND FOR OTHER PURPOSES." (1).

Whereas by an act of the legislature passed the second day of April, one thousand eight hundred and four,⁽¹⁾ a power was

vested in the commissioners of Berks county, to collect, recover and receive the arrearages of taxes due from the county of Berks to this commonwealth. And whereas doubts have arisen, whether the said law authorized the commissioners aforesaid, to recover and receive the arrears of taxes already collected and in the hands of the former county treasurer, or the monies due to the state by the bail of the former county treasurer, and also the taxes in the hands of the present county treasurer: Therefore, to obviate those doubts,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of Berks county be, and they are hereby authorized to recover and receive the arrears of taxes due to this commonwealth from said county of Berks, already collected and in the hands of the former county treasurer, or due to the commonwealth from the bail of the former county treasurer; and also the taxes due to the commonwealth, which have been collected, and are in the hands of the present county treasurer; and appropriate the same to the purpose mentioned in the act,⁽¹⁾ to which this is a supplement.

Approved February 11, 1805. Recorded in L. B. No. 10, p. 75.
Note (1). Chapter 2491. Supra, this volume, p. 829.

CHAPTER MMDXXXIX.

AN ACT TO RAISE BY WAY OF LOTTERY, A SUM NOT EXCEEDING THREE THOUSAND DOLLARS, TO DEFRAY THE EXPENSES OF BUILDING A CHURCH IN THE TOWN OF SOMERSET.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Peter Kimmel, James Clark, John Tantlinger, Ottho Shrader, Abraham Morrison, George Tutrow, Abraham Miller and Jacob Schnider, be, and

are hereby appointed commissioners to raise, by way of lottery, a sum of money not exceeding three thousand dollars, for the purpose of building a house of worship in the town of Somerset, for the use of the Lutheran and Calvinist societies, and for all other religious societies that shall wish to preach the Gospel in the same.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the commissioners, before they proceed to sell any tickets in the said lottery, shall lay such scheme thereof before the governor as shall meet his approbation, and enter into bonds to him for the due and faithful performance of their duty, in selling the tickets, drawing the lottery, and paying the prizes; and each of them, before entering on the duties of his appointment, shall take and subscribe an oath or affirmation, diligently and faithfully to perform the duties hereby entrusted to him; and two of the said commissioners, at least, shall attend each day's drawing of the aforesaid lottery, and, when the whole is completed, shall cause an accurate list of the fortunate numbers to be published in one newspaper, at least, printed in each of the following towns, to wit: The city of Philadelphia, Greensburg, Uniontown, Lancaster and Pittsburgh.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners be, and they are hereby authorized to settle and adjust all accounts which may be exhibited by any person, or persons, legally employed in carrying this act into effect, and that all expenses necessarily attending the same, shall be paid by the aforesaid commissioners, out of the net proceeds of the said lottery.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months after the publication as aforesaid, shall be considered as relinquished for the benefit of the said church.

CHAPTER MMDXL.

AN ACT TO ERECT BUFFALO TOWNSHIP, IN THE COUNTY OF CUMBERLAND, INTO A SEPARATE ELECTION DISTRICT.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the township of Buffalo, in Cumberland county, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by William Thomson, in Buffalo township aforesaid; any law to the contrary notwithstanding.

Approved February 11, 1805. Recorded in L. B. No. 10, p. 58.

CHAPTER MMDXLI.

AN ACT EXTENDING THE ACT, ENTITLED "AN ACT FOR THE RELIEF OF DIVERS INHABITANTS OF THE COUNTY OF ADAMS." (¹).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the provisions of the act, entitled, "An act for the relief of divers inhabitants of the county of Adams," passed the twelfth day of March, one thousand eight hundred and two,⁽¹⁾ be and the same is hereby extended and to continue in force, until the first day of March, one thousand eight hundred and seven.

Approved February 18, 1805. Recorded in L. B. No. 10, p. 59.

Note (¹). Chapter 2254. *Supra*, this volume, p. 86.

CHAPTER MMDXLII.

AN ACT INVESTING IN THE DEVISEES OF JOHN MEREDITH, DECEASED, SUCH PARTS OF THE FORFEITED ESTATE OF THE SAID JOHN MEREDITH AS HAVE NOT BEEN SOLD BY THIS COMMONWEALTH.

Whereas it hath been represented to the Legislature, that a small portion of the estate late of John Meredith, deceased, forfeited by his attainder, hath not been sold on behalf of the commonwealth, and Charles Meredith and others, heirs of the said John Meredith, have prayed that the same may be vested in them: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all right, title and interest, property and demand whatsoever, which the commonwealth has; in, to and out of such parts of the estate, real and personal, late of the said John Meredith, forfeited by his attainder aforesaid, as have not been heretofore sold, aliened, or otherwise disposed of, by and on account of the commonwealth, shall be and the same are hereby granted, conveyed, assigned and set over unto the said Charles Meredith and others, devisees of the said John Meredith, forever, as if the attainder of the said John Meredith had never taken place; saving nevertheless unto all other persons their just rights and claims.

Approved February 18, 1805. Recorded in L. B. No. 10, p. 59.

CHAPTER MMDXLIII.

AN ACT DIRECTING THE MODE OF FILLING VACANCIES IN THE REPRESENTATION OF THIS STATE IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

Whereas it is provided by the second section of the first article of the constitution of the United States, "That when

vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies." And whereas the fourth section of the said article provides, "That the times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That when any vacancy shall happen by death, resignation, or otherwise, in the representation of the people of this state in the House of Representatives of the United States, the governor of this commonwealth shall issue his writ, or writs, to the sheriff, or sheriffs, of the county, or counties, of which the congressional district is composed, commanding such sheriff, or sheriffs, on a certain day therein particularly expressed, to hold an election to supply such vacancy; and such writ or writs, so issued by the governor, shall be delivered to the sheriff or sheriffs to whom the same may be directed, at least twenty days before the day appointed for such election, who shall forthwith give due and public notice thereof throughout the county at least fifteen days before such election, and shall send a copy thereof to one or more of the judges of each election district therein; and such elections shall be holden and conducted in the same manner, and under the care and regulation of the same officers who conducted the next preceding annual election; subject to the same penalties as are or hereafter may be inflicted on delinquent election officers.

Approved February 18, 1805. Recorded in L. B. No. 10, p. 60.

CHAPTER MMDXLIV.

AN ACT FOR THE RELIEF OF FREDERICK STOEVER.

Whereas it appears that Henry Spiker, late paymaster of the militia of Berks county, made out a certificate, purport-

ing that a sum of twenty pounds was due to major Martin Kercher, or order, for services rendered by him in the time of the late revolutionary war, and did therein direct Daniel Levan, late treasurer of said county, to pay the same; which certificate the said Martin Kercher transferred to Frederick Stoever, who delivered the same to the late comptroller general: And whereas it is certified by the present comptroller general, that the said certificate has not been paid by the said Daniel Levan, nor by any other public agent, and also that the said certificate is not to be found among the public documents in the office of the said comptroller; from all which it appears, that the said sum of money is yet due to Frederick Stoever, who is the legal representative of the said Martin Kercher: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the accounting officers are authorized and required to adjust and settle the sum due, as principal and interest, to the said Frederick Stoever, as the legal representative of the aforesaid Martin Kercher, on the certificate aforesaid; and thereupon the governor is authorized to draw a warrant on the treasurer of the commonwealth, in favor of the said Frederick Stoever, or his lawful attorney, which he shall pay out of any unappropriated monies in the treasury: But the said Frederick Stoever, or his legal representative, shall, before such warrant is paid, enter into a bond, with sufficient surety, to the governor, conditioned, that the obligee will refund the sum so paid, together with interest, if the said certificate, so said to be lost, shall hereafter be produced for payment.

Approved February 18, 1805. Recorded in L. B. No. 10, p. 61.

CHAPTER MMDXLV.

A FURTHER SUPPLEMENT TO THE ACT, ENTITLED "AN ACT TO INCORPORATE THE CITY OF PHILADELPHIA." (*).

Whereas by the removal of the seat of government from the city of Philadelphia, it has become inconvenient to present the mayor elect to the governor, to take the oath or affirmation prescribed by law, previously to his entering upon the duties of the said office: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any of the judges of the supreme court, or the president of the court of common pleas of the first district, to administer the oath or affirmation prescribed by law, to the mayor elect, previously to his entering upon the duties of the said office.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That in case of the indisposition of the mayor, or of his absence from the said city, it shall and may be lawful for the recorder, or any of the aldermen of the said city, to administer an oath or affirmation to each of the members elect of the select and common councils, well and faithfully to execute the duties of the respective offices to which they may have been elected.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, no alderman of the city of Philadelphia, nor any person holding an office of trust or profit under the laws of this commonwealth, or the ordinances of the select and common councils, the emolument whereof is paid out of the treasury of the said city, shall be competent to serve as a member of the select or common councils.

Approved February 18, 1805. Recorded in L. B. No. 10, p. 62.

Note (*). Chapter 1394; 13 Statutes at Large, p. 193, and note.

CHAPTER MMDXLVI.

AN ACT FOR THE RELIEF OF THE CHILDREN OF JOHN MAXWELL,
DECEASED.

Whereas it is represented to the legislature, that John Maxwell, late of Caernarvon township, Lancaster county, yeoman, died intestate, anno domini one thousand seven hundred and eighty six, seized in his demesne as of fee, of, in and to a certain messuage, tenement and tract of land, situate in the township and county aforesaid, adjoining lands of Edward Davis, Christian Hartzler and David Jenkins, containing about sixty-six acres, leaving neither widow nor lawful issue, brothers nor sisters, nor any known heirs; but leaving a woman named Isabella, with whom he intermarried when under the disability of a prior marriage, and by whom he had six children, to wit: John, Margaret, Martha, Mary, Sarah and Isabella; all of whom, except Margaret, were born after the death of his first wife: And whereas it is presumed that the said landed estate has escheated to the commonwealth, for want of known heirs of the said John Maxwell, and also the said children, although not the lawful, were the reputed heirs of John Maxwell, and living with him at the time of his death, would, in all probability, have enjoyed his estate had he died testate: And whereas it would seem peculiarly severe if, under these circumstances, the said children should be forever excluded from the enjoyment of said estate, by an escheat to the commonwealth: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all and every the right, title, interest, claim and demand which this commonwealth may have acquired by reason of any escheat, or supposed escheat, for want of heirs, or known kindred, of the said John Maxwell, deceased, of, into and out of the said real estate whereof the said John Maxwell died seized, shall be and the

same hereby are vested in all the aforesaid children of the said John Maxwell, to be had and held by them, their heirs, executors, administrators and assigns, as tenants in common, forever; subject nevertheless to the satisfaction and payment of all lawful liens, debts, claims and demands whatsoever.

Approved February 18, 1805. Recorded in L. B. No. 10, p. 63.

CHAPTER MMDXLVII.

AN ACT FOR RAISING, BY WAY OF LOTTERY, THE SUM OF TWENTY THOUSAND DOLLARS, FOR REMOVING THE OBSTRUCTIONS AND IMPROVING THE NAVIGATION OF THE RIVER SUSQUEHANNA, AND CERTAIN BRANCHES THEREOF.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Thomas Boude, Christian Brennehan, Joseph Poole, John Evans, William P. Beatty, Jacob Strickler, Samuel Bethel, Adam Reigart, junior, William Ferree, Philip Diffenderfer, Michael Gundaker and Leonard Eichholtz, or a majority of them, be, and they are hereby appointed managers, to raise, by way of lottery, by one or more classes, the sum of twenty thousand dollars, to be applied for removing the obstructions and improving the navigation of the river Susquehanna and its branches; which sum shall be appropriated in the following manner, viz. Five thousand five hundred dollars whereof to be applied in removing the obstructions in said river, from the town of Columbia, in the county of Lancaster, to the mouth of Swatara, in the county of Dauphin: Three thousand three hundred dollars to be applied for like purposes, from Swatara to the mouth of the river Juniata: Three thousand two hundred dollars from the mouth of Juniata aforesaid to the town of Northumberland, in the county of Northumberland: One thousand dollars for like purposes, in the northeast branch of the said river, from the town of Northumberland aforesaid to the head of the Nanticoke rapids, in the county of Luzerne: One thousand dol-

lars for like purposes, in the west branch of said river, from the mouth thereof to Anderson's creek, in the county of Clearfield: And four thousand dollars to be applied for like purposes, in the river Juniata, from the mouth thereof to Frankstown, in the county of Huntingdon: One thousand dollars to be applied to the like purposes, in the Ray's town branch of the Juniata, from the mouth thereof to the town of Bedford: And one thousand dollars to be applied to the like purposes, in the Bald Eagle creek, from the mouth thereof to the town of Milesborough, at the forks thereof.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said managers, named in the first section of this act, previously to selling any tickets in said lottery, shall lay the scheme thereof before the governor of this commonwealth, and if he approve thereof, they shall enter into their several bonds to the governor, for the due and faithful drawing of the lottery, and likewise that they will, individually, at least once in three months, render a just and true account of all the tickets sold, and pay the money received, during said term, to the treasurer appointed or to be appointed in pursuance of this act.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the state treasurer for the time being, be, and he is hereby appointed treasurer: That, before he shall take upon him the duties of his office, he shall enter into a bond, with sufficient sureties, to the governor, that he will well and truly do and perform the several duties enjoined on him by this act.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said treasurer shall, from time to time, pay and discharge, out of such monies as he shall receive in virtue of this act, all such prizes as shall be demanded by persons legally entitled thereto, after the drawing of the first or any subsequent class of the said lottery shall be completed; the remainder of the money (after defraying the necessary expenses of said lottery) he shall hold, subject to the drafts of the commissioners named, or appointed in and by this act, and for the purposes herein mentioned.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That each of the said managers, named in the first section of this act, shall, previously to entering upon the duties of his office, take and subscribe an oath or affirmation, diligently and faithfully to perform the duties entrusted to him; and at least three of them shall attend the drawing of the lottery, on each day the said lottery shall be drawn at Lancaster, in the county of Lancaster; and, when the drawing of the first or any subsequent class is completed, the said managers shall cause an accurate list of the fortunate numbers to be lodged with the treasurer aforesaid, and also to be published in at least one newspaper in the city of Philadelphia, one in the borough of Lancaster, one in the borough of Harrisburg, one in the town of Northumberland, one in the borough of Lewistown, one in the borough of Carlisle, one in the borough of Huntingdon, and one in the borough of York.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within one year after publication as aforesaid, shall be considered as relinquished for the benefit of the undertaking; to be applied in proportion as described in the first section of this act.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the following persons are hereby appointed commissioners, whose duty it shall be, respectively, to superintendent the removing of obstructions in the rivers aforesaid, within the respective divisions, as described in the first section of this act, viz. John Haldeman and Samuel Miller, from the town of Columbia to the mouth of Swatara; Thomas Stubbs and William Murray, from Swatara to the mouth of the river Juniata; Simon Herold and Abraham M'Kenny, from the mouth of the river Juniata to the forks of Susquehanna, at the town of Northumberland; Robert Erwin, John Clark, of the town of Catawissa, and Daniel Montgomery, junior, for the northeast branch of said river, from Northumberland aforesaid to the head of the rapids at Nanticoke creek, in the county of Luzerne; Hugh White, George Crane and Bethuel Vincent, for the west branch of said

river, from Northumberland town to Anderson's creek, in the county of Clearfield; and John Gillespie, John Bratton, Robert Province and William Thompson, of Thompsontown, for the river Juniata, from the mouth thereof to Frankstown, in the county of Huntingdon; and Henry Shoub, James Entricken and Peter Morgaret, for the Ray'stown branch of the Juniata, from the mouth thereof to the town of Bedford; and Robert Boggs and Isaac M'Kinney, for the Bald Eagle creek, from the mouth thereof to the forks at the town of Milesburgh.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners respectively, are hereby authorized and empowered to employ engineers, artists, laborers and artificers, to remove all obstructions to the navigation from the bed of the aforesaid rivers, within their respective divisions, in such manner as will best improve the navigation thereof, and to keep a just and true account of all the expenditures in carrying on the work, and to transmit the same, or a copy thereof, to the treasurer aforesaid, and to draw orders respectively on the treasurer for such sums of money as may be necessary to carry into effect the said undertaking: Provided always, that the said treasurer shall not, at any time, pay over on the draft of any commissioner, a greater sum than an equal proportion to such division as prescribed by the first section of this act, reference being had to the monies in the treasury at the time of such draft being made; and the said treasurer shall keep a just and true account, in a book to be provided for that purpose, of all the monies received by him in pursuance of this act, and of all such prizes as shall be paid by him, as well as of all monies paid for the benefit of the undertaking, on drafts of the commissioners aforesaid, or any of them, and also of any lawful expenditures paid by him in carrying this act into effect; and the said treasurer shall receive such compensation, for his services, as the managers named in the first section of this act, or a majority of them shall deem reasonable.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the said managers shall take bond, with sufficient surety, from each of the said commission-

ers, for the faithful expenditure of the sums which shall come to their hands respectively; and when the work of any section of the said waters shall be completed, or the money expended, an account of the expenditures and of the work done, shall be rendered to said managers, who shall then allow such commissioner a reasonable compensation for his services; or may, in the first instance, agree as to the compensation to be received.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That in case of the death, resignation, or refusal to serve, of the treasurer, or of any commissioner named in this act, the governor is hereby authorized and empowered to appoint such person as he shall deem proper to supply any such vacancy.

Approved February 18, 1805. Recorded in L. B. No. 10, p. 64.

CHAPTER MMDXLVIII.

AN ACT TO ENABLE ELIZABETH TRAVIS, WIDOW, AND ADMINISTRATRIX OF ALL AND SINGULAR THE GOODS AND CHATTELS, RIGHTS AND CREDITS OF JOHN TRAVIS, LATE OF THE CITY OF PHILADELPHIA, MERCHANT, DECEASED, TO EXECUTE THE TRUSTS OF A CERTAIN DEED THEREIN MENTIONED.

Whereas John Travis, late of the city of Philadelphia, merchant, by deed duly executed, dated the thirtieth day of October, in the year of our Lord one thousand eight hundred and one; which said deed for the greater certainty thereof is recorded in the Rolls Office of this Commonwealth, in commission book No. 2 page 244. &c. did declare as follows; that is to say: "Whereas I, the said John Travis, as one of the partners of the firm of Nathaniel and Falkner Phillips and Company, of Manchester, merchants, and as agent to the house of John and Jeremiah Naylor, of Wakefield, in the island of Great Britain, merchants, have obtained and acquired divers tracts of land and other estate, situate in the United States, in security for the payment of divers debts or sums of money to the said firms respectively owing: And whereas in case of my death, prior to the final settlement of the transactions for which the same

were acquired, confusion and difficulty might arise in distinguishing the respective interests of the said firms, I the said John Travis, for the prevention thereof, and for other purposes, do make and execute this declaration of trust, and proceed therein to designate all the estate whatsoever which I now hold in security aforesaid, and also the debts for which the same were taken:" And the said John Travis, by the said deed, did accordingly designate and specify the estate so held as aforesaid, and also the debts for which the same were taken, as by the said deed may at large appear: And whereas Elizabeth Travis, widow and administratrix of the said John Travis, hath represented to the legislature, that the said John Travis, hath lately died intestate, not having finally settled the partnership transactions and agencies aforesaid, and that the legal title to the said property and estate hath, by the law of this commonwealth, vested in her son, an infant of very tender years, who is legally incompetent to execute and discharge the trusts attached thereto, and that it would be inconvenient and injurious to all parties concerned, to delay the settlement of the partnership transactions and agencies aforesaid, during a long minority, and that such final settlement cannot take place without a sale of the property so held in trust, and has humbly requested that a law may be passed to enable her, the said Elizabeth Travis, to execute the trusts of the said deed: And the truth of the premises satisfactorily appearing to the legislature, and it being reasonable to comply with the request of the said Elizabeth Travis: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Elizabeth Travis, of the city of Philadelphia, widow and administratrix of John Travis, late of the said city, merchant, deceased, shall and may, and she is hereby authorized and empowered, at the request of the parties interested and concerned therein, to execute the trusts of a certain deed, executed by the said John Travis in his lifetime, dated the thirtieth day of October, in the year of our Lord one thousand eight hundred and one, and recorded in the

rolls office of this commonwealth, in commission book, No. 2. page 244, &c., so far as relates to any estate or property in the said deed specified and contained within this commonwealth, and, upon such request as aforesaid, to sell and dispose of the same in fee simple, or otherwise, according to the estate which the said John Travis had and held in the same, or to vest the same in other trustees, for the purposes aforesaid, as may be most advantageous for all the parties concerned therein, so that the said Elizabeth Travis may be enabled, by the proceeds of any sale or sales of the said trust, estate or other disposition thereof, finally to settle and adjust the partnership transactions of the house of Nathaniel and Falkner Phillips and Company, and the agencies of the said John Travis to the house of John and Jeremiah Naylor, according to their respective interests therein.

Approved February 18, 1805. Recorded in L. B. No. 10, p. 67.

CHAPTER MMDXLIX.

AN ACT FOR THE MORE EFFECTUAL PREVENTION OF EXCESSIVE AND DECEITFUL GAMING, AND TO PREVENT UNLAWFUL SALES OF CHANCES OF LOTTERY TICKETS, AND TO PREVENT INSURING FOR OR AGAINST THE DRAWING OF SUCH TICKETS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, all and every person who shall, by himself, herself, or themselves, or by any other person or persons, or for his, her, or their own account, or for or on the account, or as the servant, agent or factor of any person or persons, sell, or cause or procure to be sold the chance or chances of any ticket or tickets, in any lottery or lotteries, allowed, or which shall hereafter be allowed, by the laws of this commonwealth, or any share or shares thereof, for a day or a part of a day, or any less time than the whole time of drawing, in any such lottery then to come; or insure, or cause or procure any other

person or persons to insure, for or against the drawing of any such ticket or tickets; or shall receive any money or goods whatsoever, in consideration of any agreement, or promise to repay any sum or sums of money, or to deliver the same, or any other goods whatsoever, if any such ticket shall prove fortunate or unfortunate, or upon any other chance or chances, event or events, contingency or contingencies, relative or applicable to the drawing of any such ticket or tickets, whether as to the time of their being drawn, or otherwise howsoever, upon being thereof convicted, shall forfeit and pay for each and every such offense, a sum not less than twenty nor exceeding one hundred dollars, to be recovered, as debts are by law recoverable; the one moiety thereof to go to the use of the poor of any city or county (as the case may be) in which such offense was committed; and the other moiety thereof to the person or persons who shall prosecute for the same.⁽¹⁾

Approved March 2, 1805. Recorded in L. B. No. 10, p. 69.

Note (1). See also Chapter 1603; 14 Statutes at Large, 198, and Chapter 478; 6 Statutes at Large, p. 184, and notes.

CHAPTER MMDL.

AN ACT PERPETUATING AND ENLARGING THE CORPORATE POWERS OF THE BOROUGH OF UNIONTOWN, IN THE COUNTY OF FAYETTE.

Whereas the inhabitants of the borough of Union, in the county of Fayette, have petitioned for an alteration in the law incorporating said borough, stating, that the existing law has been found upon experiment, not so conducive to the good order, conveniency and public utility of the borough as was expected: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Uniontown aforesaid shall still continue and for ever remain a borough under the name and title of "The borough of Uniontown;" the extent and bounds of which shall continue as heretofore: viz. Beginning

at a willow-bush on the lower end of a small island in Jacob Beeson's run; thence south forty-three degrees and three quarters, east sixty-seven perches to a white oak; thence south seventy-nine degrees and a quarter, east one hundred and five perches and six-tenths to a post; thence north twenty-nine degrees, east sixty-eight perches and five-tenths to a cherry tree; thence north eighty-seven degrees, east two hundred and thirty-four perches to a white oak; thence north three degrees, west sixty-two perches to a white oak; thence north forty-nine and a half degrees, west one hundred and twenty-eight perches to a stone; thence north eighty-seven degrees, west one hundred and thirteen perches to a white walnut on the east side of Redstone creek; thence up said creek to a post opposite the mouth of Jacob Beeson's run; thence up said run, with the several courses and meanders thereof, to the place of beginning.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for all persons entitled to vote for members of the legislature, who have resided in said borough six months previously to such election, to meet at the court house in the said borough on the first Monday in May, in every year, and then and there elect by ballot, between the hours of twelve and six o'clock of the same day, one reputable citizen residing therein, who shall be styled the burgess of the said borough, and nine reputable citizens to be a town council; and shall also elect as aforesaid, one reputable citizen as high constable; but previously to such election, the inhabitants shall elect two reputable citizens as judges, one as inspector, and two as clerks of the said election, which shall be regulated and conducted according to the general election law of this commonwealth, so far as relates to receiving and counting votes, and who shall be subject to the same penalties for malpractices as by the said law is imposed; and the said judges, inspector and clerks, respectively, before they enter upon the duties of their offices, shall take an oath or affirmation, before any justice of the peace of the said county, to perform the same with fidelity; and after the

said election shall be closed, shall declare the persons having the greatest number of votes to be duly elected; and in case any two or more candidates should have an equal number of votes, the preference shall be determined by lot, to be drawn by the judges and inspector; whereupon duplicate returns thereof shall be signed by the said judges, one of which shall be transmitted to each of the persons elected, and, the other filed among the records of the corporation; and in case of death, resignation, removal, refusal to accept, or neglect or refusal to act after acceptance, of any of the said offices, the burgess, or in case of his death, absence or inability to act, or when he neglects or refuses to act, the first named of the town council shall issue his precept, directed to the high constable, or when there is no high constable, or when he refuses or neglects to act, then any one of the members of the town council shall advertise and hold an election, in manner aforesaid, to supply such vacancy, giving at least ten days notice thereof, by advertisements set up at four of the most public places in the said borough.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the first Monday of May next, the burgess and town council, duly elected as aforesaid, and their successors, shall be one body politic and corporate in law, by the name and style of "The burgess and town council of the borough of Uniontown," and shall have perpetual succession; and the said burgess and town-council aforesaid, and their successors, shall be capable in law to receive, hold and possess, goods and chattels, lands and tenements, rents, liberties, jurisdictions, franchises and hereditaments, to them and their successors, in fee simple, or otherwise not exceeding the yearly value of five thousand dollars; and also to give, grant, sell, let and assign the same lands, tenements, hereditaments and rents; and by the name and style aforesaid, they shall be capable in law to sue and be sued, plead and be impleaded, in any of the courts of law in this commonwealth, in all manner of actions whatsoever; and to have and to use one common seal, and the same, from time to time, at their will, to change and alter.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person duly elected as burgess, or a member of the town council, or constable, and having received notice thereof, as aforesaid, shall refuse or neglect to take upon himself the execution of the office to which he shall have been elected, every person so refusing or neglecting shall forfeit and pay the sum of twenty dollars; which fine, and all other fines and forfeitures incurred and made payable in pursuance of this act, or of the by-laws and ordinances of the town council, shall be for the use of the corporation.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the burgess, town council, and high constable, and each of them, before entering upon the duties of their respective offices, shall take an oath or affirmation, before any justice of the peace of said county, to support the constitution of the United States and of this state, and to perform the duties of their respective offices with fidelity; and the certificates of such oaths and affirmations shall be filed among the records of the said corporation.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the town council to meet as often as occasion may require, and enact such by-laws and make such rules, regulations and ordinances, as shall be determined, by a majority of them, necessary to promote the peace, good order, benefit and advantage of said borough, particularly of providing for the regulation of the markets, streets, alleys and highways therein; they shall have power to assess, apportion and appropriate such taxes as shall be determined, by a majority of them, necessary for carrying the said by-laws, rules and regulations, into complete effect; and also to appoint a town clerk, treasurer, two persons to act as street and road commissioners, and a clerk of the market, annually, and such other officers as may be deemed necessary, from time to time. Provided, that no by-law, rule or ordinance, of the said corporation, shall be repugnant to the constitution or laws of the United States or of this commonwealth; and that no person shall be

punished for the breach of a by-law or ordinance, made as aforesaid, until three weeks have expired after the promulgation thereof, by at least four advertisements set up in the most public places in the said borough: And provided also, that no tax shall be laid in any one year on the valuation of taxable property, exceeding one-half cent in the dollar, unless some object of general utility shall be thought necessary; in which case, a majority of the freeholders of said borough, by writing under their hands, shall approve of and certify the same to the town council, who shall proceed to assess the same accordingly.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the burgess elected and qualified, agreeably to this act, is hereby authorized and empowered to issue his precept, as often as occasion may require, directed to the high constable, commanding him to collect all taxes assessed, and fines and forfeitures imposed by this act, or by the ordinances or regulations of the corporation, and the same to pay over to the treasurer; and the said burgess is hereby authorized to carry into effect all by-laws enacted by the council, and whatever else shall be enjoined upon him for the well ordering and governing the said borough; he shall have jurisdiction in all disputes between the corporation and individuals arising under the by-laws, regulations and ordinances.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the town clerk to attend all the meetings of the town council when assembled upon business of the corporation, and perform the duty of clerk thereto, and keep and preserve the common seal and records of the corporation, and be answerable for the same, and also for the faithful discharge of all the duties which may be enjoined upon him by virtue of this act, or of the acts of the corporation, and his attestation, with the seal of the corporation, shall be good evidence of the act or thing so certified.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the treasurer shall give se-

curity for the faithful discharge of the duties of his office, and for the safe delivery, into the hands of his successor, of all monies, books and accounts appertaining thereto, upon demand made by the burgess for that purpose.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the street commissioner, treasurer, constable, and clerk of the market, as well as all other officers who may be appointed by the corporation or council, shall render their accounts to the council once in every year for settlement; and the said accounts being adjusted and settled accordingly, shall be forthwith published by the said council, showing particularly the amount of taxes laid and collected, and of the expenditures.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the high constable, to give notice of the elections, by setting up advertisements in the market and three other public places in the said borough, ten days previously thereto; he shall attend and see that the same is opened at the time, and in the manner directed by this act: Provided, that it shall be the duty of the present burgesses to publish and superintend the election, to be held on the first Monday of May next, as is herein before directed.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall think him, her or themselves aggrieved, by any thing done in pursuance of this act, he, she or they may appeal to the next court of quarter sessions, to be held for the proper county, upon giving security, according to law, to prosecute his, her or their appeal with effect; and the court having taken such order therein as shall seem to them just and reasonable, the same shall be conclusive against all parties.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That from and after the first Monday of May next, the act, entitled, "An act to erect Uniontown, in the county of Fayette, into a borough," passed

on the fourth day of April, in the year one thousand seven hundred and ninety-six,⁽¹⁾ be, and the same is hereby repealed.

Approved March 2, 1805. Recorded in L. B. No. 10, p. 70.

Note (1). Chapter 1910; 15 Statutes at Large, p. 469.

CHAPTER MMDLI.

AN ACT VESTING IN THE HEIRS OF LEONARD STONEBURNER A TITLE TO A CERTAIN TRACT OF LAND.

Whereas Jacob Engle and Engle Bensell were, on the tenth day of January, one thousand seven hundred and ninety-three, duly empowered by the devisees of the estate of Paul Engle, deceased, (excepting Levi Engle who was absent) by letter of attorney, bearing date above, to grant, bargain, sell and convey the real estates which they were entitled to by the will of the said Paul Engle, deceased: And whereas, in pursuance of the said letter of attorney, the said Jacob Engle and Engle Bensell did sell a certain tract of land called Engina, situate on the south side of Crooked creek, formerly in the county of Westmoreland, now in the county of Armstrong, bounded by lands surveyed in the names of Thomas York and Thomas Burd, containing three hundred and fifty-seven acres and three quarters of an acre with allowance, to Leonard Stoneburner: And whereas it appears by the settlement of the said attorneys accounts with the devisees aforesaid, that the price of fifty pounds was paid by Leonard Stoneburner aforesaid, for the said tract of land, and who has since died intestate, leaving issue four children, viz. Sarah Paris, Hester Woodrow, Mary Ruth and Ann Stoneburner, and that the said Sarah Paris has since deceased, having first, by her last will and testament, devised all her real estate unto George S. Bensell: And whereas no conveyance of the above tract of land was executed by the attorneys aforesaid to the said Leonard Stoneburner, and one of them, viz. Jacob Engle is now deceased, and the other, viz. Engle Bensell, in consequence of indisposition of mind, is disqualified to execute the same: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all the right, title, interest, claim and demand that Paul Engle aforesaid, in his life time had to the above named tract of land called Engina, (excepting one thirtieth part thereof which is reserved for the use and benefit of Levi Engle aforesaid, or his legal representatives) shall be, and the same is hereby vested in the said Hester Woodrow, Mary Rush, Ann Stoneburner and George S. Bensell, their heirs and assigns forever, in equal parts as tenants in common, and not as joint tenants, in as full a manner as the above named attorneys could, by any act or deed of conveyance, at any time, have legally done or effected.

Approved March 2, 1805. Recorded in L. B. No. 10, p. 74.

CHAPTER MMDLII.

AN ACT FOR THE ELECTING AND APPOINTMENT OF CONSTABLES IN THE BOROUGHS OF READING AND LANCASTER.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the electors, residing in the borough of Reading, in the county of Berks, shall, on the third Saturday of March, yearly, and every year hereafter, elect four suitable persons, being citizens of said borough, for the office of constable in addition to the usual number heretofore elected, and shall return the names of the persons so elected to the next general court of quarter sessions of the peace to be holden for the county of Berks, and the court shall appoint any two of them constables for the said borough, and the persons so elected and appointed shall, in case of refusal to serve, be subject to like penalties as by law are already imposed, and in case of any vacancy by death, removal or otherwise, the court shall appoint, in the usual manner, an-

other person to serve the said office, for and during the term which the person in whose room he was appointed was to have served, who shall hold such office subject as aforesaid.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the electors, residing in the borough of Lancaster, in the county of Lancaster, shall, on the third Saturday of March, yearly, and every year hereafter elect four suitable persons, being citizens of said borough, for the office of constable, and shall return the names of the persons so elected to the next general court of quarter sessions of the peace to be holden for the county of Lancaster, and the court shall appoint two of them constables for the said borough, and the person so elected and appointed shall in case of refusal to serve, be subject to like penalties as by law are already imposed, and in case of any vacancy by death, removal or otherwise, the court shall appoint, in the usual manner, another person to serve the said office for and during the term which the person in whose room he was appointed was to have served.

Approved March 2, 1804. Recorded in L. B. No. 10, p. 75.

CHAPTER MMDLIII.

AN ACT TO ORGANIZE THE PROVISIONAL COUNTY OF ARMSTRONG.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first Monday of November next, the inhabitants of the county of Armstrong shall enjoy all and singular the jurisdiction, powers, rights, liberties and privileges within the same, which the inhabitants of other counties in this state do enjoy by the constitution and laws of this commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That actions of trespass and ejectment for the trial of titles to land, actions of trespass quare

clausum fregit, for entry into any lands or tenements within the county of Armstrong, which shall, at the time of passing this act, or before the first Monday of November next, have been commenced in the court of common pleas or circuit court of Westmoreland county, and which shall on the said first Monday of November next, be still pending and undetermined, shall be transferred to the court of common pleas and circuit court of Armstrong county, there to be proceeded on to trial and determination according to law, in the same state, and subject to the same rules, as they or any of them were on the said Monday, and the prothonotary of Westmoreland county shall, and he is hereby required and enjoined, within thirty days after the said first Monday of November next, to make out a docket, containing a statement of all such actions then pending and undetermined in the said county of Westmoreland, and shall have the said docket, together with the records, declarations and other papers respecting all such actions then pending and undetermined as aforesaid, ready to be delivered to the prothonotary of Armstrong county, who, before he receives the same, shall pay to the prothonotary of Westmoreland county, for every action contained in said docket, the usual fees allowed for similar services, which shall be reimbursed to him by the county of Armstrong; and all such actions so pending and undetermined as aforesaid and transferred as aforesaid, by the prothonotary of Westmoreland county to the prothonotary of Armstrong county, shall be considered as pending in the court of common pleas and circuit court of Armstrong county, from and after the first Monday of November next, as if they had been originally commenced in said county; and the prothonotary of Armstrong county shall account upon the receipt of the costs of all such actions, or any of them, to the prothonotary of Westmoreland county for all legal fees incurred in the county of Westmoreland, on such actions, or any of them; and no action or suit, other than the said actions of trespass and ejectment, or trespass quare clausum fregit, now commenced, or which may be commenced, in the county of Westmoreland, before the first Monday of November next, against any person living or re-

siding in Armstrong county shall be stayed, discontinued or affected by this act, or any thing herein contained, but the same may be prosecuted in the same manner as if this act had not been passed.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the sheriff, coroner and other public officers of Westmoreland county shall continue to exercise the duties of their respective offices within the county of Armstrong, as heretofore, until the first Monday of November.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That sheriffs, coroners, treasurers and all such other officers as have heretofore usually given bail for the faithful discharge of the duties of their respective offices, who shall be hereafter elected or appointed in the county of Armstrong, before they enter on the duties of their offices, shall give sufficient sureties in the like sums, and in the like manner and form, and for the like purposes, uses and trusts, as such officers are obliged to do in the county of Crawford, or for such sums, or in such manner as may hereafter be directed by law.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That all taxes laid, or directed to be laid, within the county of Armstrong, before the passing of this act, shall be laid, assessed, levied and collected in like manner as if this act had not been passed, and all sums of money due this commonwealth for militia fines in the said county of Armstrong, and arrearages of taxes, shall be collected and recovered in the same manner as if this act had not been made.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the commissioners that may be hereafter elected for the county of Armstrong, to erect, or cause to be erected, as soon as they deem convenient, a court house, prison, and public buildings for the safe keeping of the records and papers in the county aforesaid, on such parts of the public square in the town of Kittaning, in the county of Armstrong, as the

commissioners of said county may think proper; and the commissioners of Westmoreland and Armstrong counties are hereby directed to examine, liquidate and settle the accounts which have been kept of the county taxes, agreeably to an act of the general assembly of this commonwealth, passed the twelfth day of March, one thousand eight hundred,⁽¹⁾ and on having ascertained the balance which may be due from either county to the other, the commissioners of the debtor county shall draw an order on their treasurer, directing him to pay the treasurer of the creditor county the balance which shall be so found due.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the commissioners of Armstrong county shall have power to procure a house in or as near the town of Kittaning, as convenience will admit at the least possible expense, in which the courts of said county shall be held until a court house is erected, or if such house cannot be conveniently procured, the aforesaid commissioners shall have power to erect temporary buildings in said county for that purpose.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the citizens, inhabitants of Armstrong county, who are or shall be qualified to elect, agreeably to the laws and constitution of this state, shall, at the general election to be held in the county aforesaid, on the second Tuesday of October next, choose two fit persons for sheriffs, two for coroners, and three for commissioners in said county, in the same manner, and under the same regulations and penalties, as by the constitution and laws of this commonwealth, similar officers are chosen in other counties; and said officers when chosen as aforesaid and duly qualified to enter on the duties of their respective offices, shall have and enjoy all and singular the powers, authorities, privileges and emoluments, in or any way arising out of their respective offices, in and for the county aforesaid, as fully as such officers are entitled to in any of the counties within this commonwealth.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the courts of common pleas and quarter sessions of the peace for the county of Armstrong, shall, from and after the first Monday of November next, commence and be holden on the second Monday after the courts in Westmoreland county, and the judges of the supreme court, the president of the fifth circuit or district, and the judges to be appointed in the said county of Armstrong, shall have and exercise like powers, jurisdictions and authorities within and over the same as are or may be warranted to and exercised by the judges in other counties within this state.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That every law, or part of any law, which is by this act altered or supplied, shall be so far and no farther repealed and made void.

Approved March 18, 1805. Recorded in L. B. No. 10, p. 76.

Note (1). Chapter 2130; 16 Statutes at Large, p. 53.

CHAPTER MMDLIV.

AN ACT FOR THE RELIEF OF JOHN HUGHES.

Whereas it has been represented to the Legislature, that John Hughes received patents from this commonwealth for two tracts of land, each containing four hundred acres and allowance; which lands are ascertained, on running the permanent western boundary line, to have fallen within the state of Virginia: That the agreement entered into between the states of Virginia and Pennsylvania relative to fixing the western boundary line between the said states, and the ratification of said agreement on behalf of this state, providing for and securing the rights of the inhabitants of each state to their lands, although the title might have accrued under either state, does not provide for this case, because the warrants and patents were issued by the state of Pennsylvania to the said John Hughes, subsequent to the said agreement and final ratification on behalf of this commonwealth, and

previously to the running and opening of the said boundary line: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the board of property, upon application for that purpose by John Hughes, or his legal representatives, whose lands are ascertained to lie within the state of Virginia, shall liquidate the amount of the payment made by him for the lands as aforesaid, and certify the same to the receiver general, who shall thereupon deliver a certificate or certificates of such sum, with interest thereon from the time of payment, to the said John Hughes, and enter a credit in his book for the same, which may be transferred to any person or persons, and passed as credit in payment of arrears of former grants.

Approved March 2, 1805. Recorded in L. B. No. 10, p. 79.

CHAPTER MMDLV.

AN ACT EMPOWERING THE COMMISSIONERS OF BEAVER AND BUTLER COUNTIES TO COLLECT CERTAIN ARREARAGES OF COUNTY TAXES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the commissioners of the counties of Beaver and Butler respectively, and their successors in office, shall be and they are hereby authorized and empowered to recover and collect the arrearages of taxes due on unseated lands in said counties, which taxes remained unpaid at the time of their organization, and, if necessary, to proceed and sell the said lands, or any part of them respectively, to discharge the taxes due as aforesaid; subject to the rules, regulations and restrictions provided by an act of assembly, passed April the third, one thousand eight hundred and four,⁽¹⁾ entitled, "An act directing the mode of selling unseated lands

for taxes;" which sales, thus made and conducted, and the titles made by virtue of the same, shall be valid in law to all intents and purposes.

Approved March, 1805. Recorded in L. B. No. 10, p. 80.
Note (1). Chapter 2524. Supra, this volume, p. 877.

CHAPTER MMDLVI.

AN ACT FOR THE RELIEF OF ROBINA DUNLAP.

Whereas it has been represented to the Legislature, that Robina Dunlap, late of Dauphin county, (now of Mifflin county) widow of John Dunlap, deceased, who was killed in our revolutionary war, at the battle of Chestnut-hill, in the year one thousand seven hundred and seventy-seven, when in the service of the United States, under captain James Crouch, and that the court of Dauphin county, in pursuance of an act of assembly in such case made and provided, did grant to the said Robina Dunlap, as the relict of the said John Dunlap, twenty-five shillings per month, as a pension, to commence and be payable from and after the twenty-first day of September, one thousand seven hundred and eighty-five, being about the time that Dauphin county was organized: And whereas there is a lapse of time, to wit; from the death of the said John Dunlap, until the said twenty-first of September, one thousand seven hundred and eighty-five, the time the said county was organized, for which Robina Dunlap has not received such pay as is by law made and provided, which, it is presumed, the said court did not feel themselves authorized to allow, as their power could not be extended farther back than the organization of said county: And whereas, in consideration of the services her deceased husband rendered his country, it would be proper to grant the said Robina Dunlap the relief she prays for: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted

by the authority of the same, That the accounting officers be, and they are hereby directed to settle the accounts of the said Robina Dunlap, at the rate of three dollars thirty-three cents a month, from the fourth day of December, in the year one thousand seven hundred and seventy-seven, until the twenty-first day of September, in the year one thousand seven hundred and eighty-five, together with lawful interest thereon; and the amount shall be paid out of any unappropriated monies in the treasury of this commonwealth, on a warrant to be drawn by the governor in favor of the said Robina Dunlap, or her legal representative.

Approved March 2, 1805. Recorded in L. B. No. 10, p. 80.

CHAPTER MMLVII.

AN ACT DIRECTING THE SALE OF CERTAIN TOWN LOTS IN THE TOWN OF BEAVER, AND OTHER LAND ADJACENT THERETO.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That John Laurence, of the borough of Beaver, Samuel Wilson and David Potter, of the county of Beaver, be, and they are hereby authorized and empowered to sell and dispose of, at public sale, on or before the second Wednesday of June next, one-fourth of the town lots, the property of this commonwealth, in the town of Beaver, in the county of Beaver, excepting those heretofore reserved for public uses; and also to sell, as aforesaid, one fourth of the reserved tract of land at the mouth of Big Beaver Creek; to be sold in lots of not less than five or more than ten acres each, in such manner as to them, or a majority of them, may appear to be most advantageous to the commonwealth; public notice of the said sale being previously given, at least six weeks before the day of sale, in one newspaper printed in Philadelphia, one in Washington, and one in Pittsburgh; and on the day appointed for the sale of the said lots, the

said commissioners, or a majority of them, shall attend and publish the conditions of the sale, which shall be as follows, viz. One moiety of the purchase money shall be paid on the day of sale, to the commissioners, or one of them, or within ten days thereafter; and the other moiety thereof in two years thereafter to the receiver general; at which time a patent or patents shall be issued to the purchaser or purchasers of the lots so sold: Provided, that every such purchaser shall, within three years from the time of sale, build or cause to be built on such town lot, so sold as aforesaid, a house of at least one story high, measuring not less than twenty-four feet by eighteen, having a chimney therein, and fit for the accommodation of a family, otherwise the money paid shall be forfeited, and the lot or lots so remaining unimproved shall again revert to the commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That previously to the said sales, the surveyor general of this commonwealth shall, and he is hereby required to transmit to the said commissioners, or to one of them, a draft of the said lots; and the said commissioners, on the completion of the said sales, shall transmit a statement thereof, and the monies arising therefrom, to the receiver general, and the drafts of the said lots to the surveyor general; for which services, and all others enjoined on them by this act, the said commissioners shall each of them receive two dollars a day, for each and every day they may be employed in performing the duties enjoined on them by this act; for which daily pay, and the costs and charges of advertising the said lots, the governor is hereby empowered to draw a warrant on the state-treasurer, who shall pay the same out of any unappropriated monies in the treasury of this commonwealth.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That each of the said commissioners, before he enters on the duties enjoined on him by this act, shall, before the prothonotary of the county of Beaver, give bond, with two sufficient sureties, to the governor, in a sum not less than three thousand dollars, conditioned for the

true and faithful performance of their respective trusts; which bond shall be deposited in the office of the said prothonotary.

Approved March 2, 1805. Recorded in L. B. No. 10, p. 81.

CHAPTER MDLVIII.

AN ACT DISSOLVING THE MARRIAGE OF THOMAS ADKINSON AND REBECCA, HIS WIFE.

Whereas it appears by the memorial and petition of Rebecca Adkinson, late Rebecca Rittenhouse, of Fayette county, fully supported by official documents and authentic vouchers, that Thomas Adkinson, (then of good character) and the said Rebecca were lawfully joined in marriage on the twelfth day of November, anno domini one thousand eight hundred and one; that in the month of May, anno domini one thousand eight hundred and three, the said Thomas was arrested and committed to the jail of Fayette county, and at June term, in said county, indicted of larceny; that said Thomas having escaped from said prison, the process issued in consequence of the aforesaid indictment was, at the next term, returned "non est inventus;" that said Thomas was in the month of March, anno domini one thousand eight hundred and four, arraigned and convicted, in the court of quarter sessions of the peace of Allegheny county, of divers felonies, and was thereupon sentenced and adjudged to undergo an imprisonment of five years in the penitentiary house in Philadelphia, and otherwise to be dealt with as the law directs; in which prison he now remains: And whereas it appears, that the conduct of the said Thomas from the month of May, one thousand eight hundred and three, to the present time, has been one continued scene of vice evincing a total dereliction of morality, and an entire neglect of his wife and tender infant, insomuch that the said Rebecca has lost all confidence in and affection for her said husband and has prayed the legislature to dissolve the marriage heretofore contracted between them: And whereas it appears that the said Rebecca is of good character,

and that however enormous the conduct of her husband has been the existing laws do not authorize the courts of justice to grant a divorce under these circumstances: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the marriage contract entered into by the said Thomas and Rebecca Adkinson, be, and the same is hereby declared to be null and void, and the parties respectively set free and discharged from the marriage contract, and all the duties arising under the same, as fully and absolutely as if they had never been joined in marriage; but nothing herein contained shall be construed to affect or render illegitimate any child or children born of the body of the said Rebecca during the coverture.

Approved March 2, 1805. Recorded in L. B. No. 10, p. 83.

CHAPTER MMDLIX.

AN ACT AUTHORIZING THE GOVERNOR TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD FROM THE RIVER SCHUYLKILL AT READING, IN THE COUNTY OF BERKS, TO OR NEAR HUMMELSTOWN IN THE COUNTY OF DAUPHIN.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Joseph Heister, Peter Frailey, John Huy, John Keim, senior, George Ege, Conrad Staugh, Christian Lower, of the county of Berks, and John Mayer, Philip Greenawalt, Peter Shindle, David Krause, Henry Gilpin, Henry Meyer, Abram Raguel, Henry Berry, Andrew Kellinger, John Kean, Jacob Greenawalt, George Hoyer and Robert Harris, of the county of Dauphin, be, and they are hereby appointed commissioners, to perform the several duties hereinafter mentioned, that is to say, they shall procure eight books, and in each of them enter as follows: "We the subscribers, promise to pay to the president, mana-

gers and company of the Berks and Dauphin turnpike road company, the sum of fifty dollars for every share set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the said company, in pursuance of an act of the general assembly, entitled, "An act authorizing the governor to incorporate a company for making an artificial road from the river Schuylkill at Reading in the county of Berks, to or near to Hummelstown, in the county of Dauphin." Witness our hands, the day of in the year one thousand eight hundred and five;" and shall give notice in the public newspapers printed at Reading and Harrisburg, and also in one printed in Philadelphia, for two weeks at least, of the times and places when and where the said books will be open to receive subscriptions of stock for the company, at which respective times and places some three of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, in which any person of the age of twenty-one years shall be at liberty to subscribe in his or her own name or any other name or names, by whom he or she shall be authorized, for any number of shares in the said stock, until two thousand one hundred shares shall in the whole be subscribed, and every person offering to subscribe in the said books, shall, previously pay to the attending commissioners, five dollars for every share to be by him or her subscribed; out of which shall be defrayed the expense of taking subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation as soon as the same shall be organized.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when sixty persons or more shall have subscribed for ten hundred or more shares of the said stock, the said commissioners respectively may, or when the whole number of shares aforesaid shall be subscribed, they shall certify, under their hands and seals, the names of the subscribers and number of shares subscribed to the governor of this commonwealth, and thereupon it shall and may be lawful for the governor, by letters patent under his hand

and the seal of the state, to create and erect the subscribers, and if the said subscription be not full at the time, then also those who shall after subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The president, managers and company of the Berks and Dauphin Turnpike Road;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary, to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, in fee simple, and for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and of being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the seven persons first named in the said letters patent, shall as soon as conveniently may be, give thirty days notice in the public papers aforesaid, of the time and place by them appointed for the said subscribers to meet, in order to organize the said corporation, and to choose by a majority of votes of the said subscribers, by ballot to be delivered in person or by proxy, one president, eight managers, one treasurer, and such other officers as shall be deemed necessary, to conduct the business of the said company until the first Monday in March then next ensuing, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations, as do not contravene the constitution and laws of this commonwealth, and as may be necessary for the well-governing the affairs of the said company: Provided always, that no person shall have more than five votes at any election, or in determining any question

arising at such meeting, whatever number of shares he or she may be entitled to.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet at such times and places, in every year, as shall be fixed by their by-laws, for the purpose of choosing such other officers, as aforesaid, for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meeting, they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations made as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him, her or them subscribed and held, they or either of them paying five dollars for each share; which certificate shall be transferable at his, her or their pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer, subject however to all the payments due and to grow due thereon, and the assignee holding any certificate, having caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the corporation, and, for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places as shall be ordained by their by-laws, and when met, five members shall form a quorum, who, in the absence of the president, may choose

a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and shall have full power and authority to appoint all such surveyors, engineers, superintendents, and other artists and officers, as they shall deem necessary to carry on the intended works, and to fix their salaries and wages; to ascertain the times, manner and proportions in which the stockholders shall pay the monies due on their respective shares, in order to carry on the work; to draw orders on the treasurer for all monies necessary to pay the salaries or wages of persons by them employed, and for the materials provided, which orders shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by their clerk; and generally to do all such other acts, matters and things as by this act, and by the by-laws, rules, orders and regulations of the company they shall be authorized to do.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder, after thirty days notice in the public papers aforesaid, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, shall neglect to pay such proportion or dividend at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, or his assignee, shall, in addition to the dividend so called for, pay after the rate of three per centum per month, for every month's delay of such payment after the time first appointed for it to be made, and if the same and the said additional penalty shall remain unpaid for such space of time, as that the accumulated penalties shall become equal to the sums before paid in part, on account of such share, the same shall be forfeited to the said company, and may be sold to any person or persons willing to purchase, for such price as can be obtained for the same.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, their superintendents, surveyors, engineers, artists and chain-bearers, to enter into and upon all, and every the lands and inclosures,

in, through and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most suitable for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix such route or track for the same, as in the best of their judgment and skill, will combine shortness of distance with the most practicable ground from the river Schuylkill at Reading, through Middletown, in the county of Berks, thence through the borough of Lebanon, Millerstown and Palmstown, in the county of Dauphin, till it intersects the road leading from Cornwallfurnace to Hummelstown, at or near to Hummelstown aforesaid.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, by and with their superintendents, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, wains and other carriages and beasts of draught and burden, to enter upon the lands, in, over, contiguous and near to which the route and track of the said intended road shall pass, first giving notice of their intention to the owners thereof, or their representatives, and doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making compensation for any damages that may be done to any improvements thereon, and also for the value of the materials, by appraisement to be made in the manner hereinafter directed, and upon reasonable agreement, if they can agree; if they cannot agree, then upon an appraisement to be made upon oath or affirmation, by three disinterested reputable freeholders, to be mutually chosen, whose award, or the award of any two of them, shall be final; and if either the said president and managers, or the said owners, shall, upon due notice, neglect or refuse to join in the choice, then it shall and may be lawful for any justice of the peace of the county where the said damages may be done, not interested on either side, to appoint the said freeholders: Pro-

vided, that under the last manner of appointing the said freeholders, either of the parties may appeal to the court, in the usual manner, within six days from the time of giving the award, and upon tender of the value so appraised and adjudged as aforesaid, it shall and may be lawful for the said president and managers, or for any person or persons by his, or their directions, to dig, cut, take and carry away timber, stone, gravel, sand or earth there being most conveniently situated for making or repairing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company shall cause a road to be laid out sixty feet wide, and at least twenty-one feet thereof to be made an artificial road, bedded with stone, gravel, or any other hard substance, well compacted together, and of sufficient depth to secure a solid foundation, in such manner as to secure, as near as the materials will admit, a firm and even surface rising towards the middle by a gradual arch, and so nearly level in its progress as that it shall in no place rise or fall more than will form an angle of four degrees with an horizontal line, and shall forever hereafter maintain and keep the same in good and perfect order and repair: Provided nevertheless, that if the said road shall be laid out and founded over and upon any land, whereby the owner thereof shall suffer damage, the person or persons sustaining such damage may make application to the court of the county in which such damage shall have been done, and thereupon the court shall appoint six fit disinterested persons to view and adjudge the amount of the damage so done, which, if approved of by the court, shall be paid by the company.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That as soon as the said president, managers and company shall have perfected the said road from the Schuylkill bridge the distance of five miles, and so, from time to time, any distance not less than five miles progressively, they shall give notice thereof to the governor, who shall thereupon forthwith nominate and appoint three skillful and judicious persons to view and examine the same,

and report to him in writing, whether the said road or so much thereof as is finished, is executed in a masterly, workmanlike manner, according to the true intent and meaning of this act, and if their report shall be in the affirmative, then the governor shall, by license under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers and company to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling on the same with horses, cattle, carts and carriages.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said company having perfected the said road, or such part thereof, from time to time, as aforesaid, and the same being examined, approved and licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper to collect, and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop and detain any person riding, leading or driving any horse, or driving any cattle, hogs, sheep, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure from passing through the said gates or turnpikes until they shall respectively have paid the same; that is to say, for every ten miles of the said road, the following sums of money, and so in proportion for any lesser distance, or for any greater or lesser number of sheep, hogs or cattle; to wit, For every score of sheep twelve and an half cents; for every score of hogs twelve and an half cents; for every score of cattle twenty-five cents; for every horse and his rider, or led horse, six cents; for every sulky, chair, or chaise, with one horse and two wheels twelve and an half cents; for every chariot, coach, phaeton or chaise with two horses and four wheels twenty-five cents; for either of the carriages last mentioned with four horses thirty-seven and one half cents; for every other carriage of pleasure, under whatever name it may go, the like sums according to the number of wheels and horses drawing

the same; for every sleigh or sled six cents, for each horse drawing the same; for every cart or wagon the wheels of which do not exceed the breadth of four inches, ten cents for each horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches and not exceed seven inches, six cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than seven inches and not more than ten inches, or being of the breadth of seven inches shall roll more than ten inches, five cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches shall roll more than fifteen inches, four cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than twelve inches, three cents for each horse drawing the same: Provided, that no toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or going to or returning from public worship or a funeral, or going to or returning from performing militia duty, either on horseback or with carriages, on days appointed for such purposes.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That no wagon or other carriage with four wheels, the breadth of the wheels of which shall not be four inches, shall be drawn along the said road between the first day of December and the first day of May following in any year, with a greater weight thereon than two tons and an half, or with more than three tons during the residue of the year; that no such carriage, the breadth of the wheels of which shall not be seven inches, or being six inches or more, shall not roll at least ten inches, shall be drawn along the said road between the said first days of December and May, with more than three tons and an half, or with more than four tons during the residue of the year; that no such carriage the breadth of the wheels of which shall not be ten inches or more, or being less shall not roll at least twelve inches, shall be drawn along the said road between the said

first days of December and May, with more than five tons, or with more than five tons and an half during the residue of the year; that no cart or other carriage with two wheels, the breadth of the wheels of which shall not be four inches shall be drawn along the said road with a greater weight thereon than one ton and a quarter between the said first days of December and May, or with more than one ton and an half during the residue of the year; that no such carriage, the wheels of which shall not be of the breadth of seven inches, shall be drawn along the said road with more than two tons and an half between the first days of December and May, or with more than three tons during the residue of the year; that no such carriage, the wheels of which shall not be of the breadth of ten inches, shall be drawn along the said road between the said first days of December and May, with more than three tons and an half, or with more than four tons during the residue of the year; that no greater weight than seven tons shall be drawn along the said road in any carriage whatever between the said first days of December and May, nor more than eight tons during the residue of the year.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That all such carriages as aforesaid, which shall be drawn by oxen, or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse in charging all the aforesaid tolls, and every mule as equal to one horse.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of five days, and information thereof shall be given to any justice of the peace of the neighborhood, such justice shall issue a precept, to be directed to any constable, commanding him to summon three disinterested freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall be complained of, notice of which meeting shall be given to the keeper of the gate or turnpike nearest thereto, and the said justice shall, at such time and place, by the oaths or affirma-

tions of the said freeholders, enquire whether the said road or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under the hands of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes and gates, for passing the interval of road between them shall cease to be demanded, paid or collected until the said defective part or parts of the said road shall be put in good and perfect order and repair as aforesaid; and if any of the keepers of the gates aforesaid shall take or attempt to exact tolls for the intermediate distance aforesaid, until the same is put in repair, such keeper shall forfeit and pay, to any person who may sue for the same, five dollars, to be recovered as debts of equal amount are or may be by law recoverable; and if the same shall not be so put into good and perfect order and repair before the next general court of quarter sessions of the peace to be held for the county wherein the said defective part or parts of the said road shall be, the aforesaid justice shall certify and send a copy of the inquisition aforesaid to the justices of the said court, and the said justices shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be so found defective, and shall direct a bill of indictment to be sent to the grand inquest against the person or persons interested as aforesaid; and upon conviction, the said court shall give such judgment according to the nature and aggravation of the neglect, as according to right and justice may be proper; and the fines and penalties so to be imposed shall be recovered in the said court, and shall be paid to the supervisors of the highways of the township wherein the offense was committed; to be applied to repairing

such highways as the township or county is bound to maintain and repair at the public expense thereof.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whosoever, owning, riding in, or driving any sulky, chair, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, or owning, riding, leading or driving any horse, mare or gelding, or driving any hogs, sheep or other cattle, shall therewith pass through any private gate or bars, or along or over any private passageway, or other ground near to or adjoining any turnpike or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company, and evade the payment of the toll or duty for passing through any such gate or turnpike; or if any person or persons, with such intent, take off, or cause to be taken off, any horse, mare, gelding, or other cattle from any sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, or practise any other fraudulent means or device, with the intent that the payment of any such toll or duty may be evaded or lessened, all and every person and persons, in all or any of the ways or manners aforesaid, offending, shall for every such offense, respectively, forfeit and pay to the president, managers and company, any sum not exceeding ten dollars, to be sued for and recovered with costs of suit, before any justice of the peace, in like manner and subject to the same rules and regulations as debts of an equal amount may be sued for and recovered.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all monies received by them from the said commissioners, and from the subscribers to the said undertaking on account of the several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also all monies by them expended in the prosecution of their said work; and shall once at least in every year submit such accounts to a

general meeting of the stockholders until the said road shall be completed, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or whenever the capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened, according to the provisions of this act, or their by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the money subscribed for such shares, in like manner and under the like penalties as are herein before provided by the original subscriptions or as shall be provided by their by-laws.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall also keep a just and true account of all the monies received by their several and respective collectors of tolls, at the several gates or turnpikes on the said road, from beginning to end, and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the subscribers to the said company's stock; and shall on the first Monday in March and September in every year, publish the half yearly dividend to be made of the said clear profits among the stockholders, and of the time and place when and where the same will be paid, and cause the same to be paid accordingly.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the general assembly of this commonwealth, an abstract of their accounts showing the whole amount of their capital expended in the prosecution of

the said work, and the income and profits arising from the said toll, for and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear, from the average profits thereof for the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall be lawful to, and for the said president, managers and company to increase the tolls herein before allowed, in equal proportions upon each and every allowance thereof, so as to raise the dividends up to six per centum per annum; and at the end of every two years after the said road shall be completed, they shall render to the general assembly, a like abstract of their accounts for two preceding years; and if, at the end of any such period, it shall appear by such abstract, that the clear profits and income of the said company will bear a dividend of more than nine per centum per annum, the surplus above that amount, whenever sufficient shall arise, shall be appropriated by the said president and managers, to the purchase of such share or shares of the said stock as the money arising from the said surplus will be found adequate to purchase, until all the said shares shall be so purchased; and the said stockholders shall determine by lot, from time to time, whose share or shares shall be paid off by the money arising as aforesaid; for which shares the said company shall pay the sums which were originally paid for each respective share; and when the whole number of shares shall have been purchased as aforesaid, then the said road shall be free, and no toll whatever shall be exacted.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected at the intersection of every public road falling into and leading out of the said turnpike road, with boards and index-hand pointing to the direction of such

road, on both sides whereof shall be inscribed, in legible characters, the name of the town, village or place, to which such road leads, and the distance thereof in computed miles.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the river Schuylkill aforesaid, and then extending to the termination of the turnpike road aforesaid, whereon shall be marked in plain legible characters, the respective number of miles which each stone is distant from Reading and Harrisburg, and at every gate or turnpike by them to be fixed on the said road, shall cause the distance from Reading aforesaid, and the distance from the nearest gates or turnpikes in each direction, to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates, or some other conspicuous place, for the information of travellers using the said road; and if any person shall willfully destroy the said posts, boards, index-hands or mile-stones, or deface the directions made on the said gates or other conspicuous places as aforesaid, such person being convicted thereof, by the evidence of one or more credible and disinterested witness or witnesses, before any disinterested justice of the peace of the county where any of the said posts, boards, index-hands, mile-stones and directions on the said gates or other conspicuous places, shall be destroyed or defaced, he shall be adjudged by the said justice to pay a fine not exceeding ten dollars, to be recovered with costs, as debts of equal amount are or may be by law recoverable; which fine when recovered, shall be paid by the said justice to the treasurer of the said company for the use of the company.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of said road in the passing direction, leaving the other side of the road free and clear for other carriages to pass; and if any driver shall offend against this provision,

he shall forfeit and pay any sum not exceeding two dollars, to any person who shall be obstructed in his passage and will sue for the same, to be recovered with costs before any justice, in the same manner as debts of equal amount are or may be by law recoverable.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That if the company shall not proceed to carry on the said work within four years after the passing of this act, or shall not, within ten years afterwards complete the said road, according to the true intent and meaning of this act, then, in either of those cases, all and singular the rights, liberties, privileges and franchises hereby granted to the company, shall revert to this commonwealth.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and twenty-five, think proper to take possession of the said road, or to declare the same to be free of toll, five persons shall be appointed by the legislature, and five by the president and managers of the said company, who, or any six or more of them, shall proceed to examine and estimate the value of the property which the said company hath therein, and certify the amount thereof to the governor of this commonwealth who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be paid to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.

Approved March 2, 1805. Recorded in L. B. No. 10, p. 84.

CHAPTER MMDLX.

AN ACT RELEASING ALL CLAIMS OF THE COMMONWEALTH TO THE LANDS CONTAINED WITHIN THE BOROUGH OF YORK.

Whereas it hath been represented to the legislature, by sundry inhabitants of the borough of York, in this State, that

John Penn and Richard Penn, late proprietaries of Pennsylvania, have, by their agent John R. Coats, esquire, made claim to the lots and land contained within the lines of the borough of York, as part of their private property or estates, reserved to them by an act of assembly of this state, and that the freeholders of said borough, willing to avoid law suits, have made an advantageous contract with the said John R. Coats, esquire, by which the said John R. Coats, agent as aforesaid, hath agreed for the consideration mentioned in said contract, to release and confirm to the several persons holding lots in said borough, all the right, interest and claim of the said John Penn and Richard Penn, and also all claim to the unappropriated lands in the said borough to the corporation thereof; but that said bargain or agreement was to be conditional, until the legislature should pass a law relinquishing the claim of this state to all right, title, interest and claim within the said borough: Wherefore for the purpose of giving effect to said contract.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all right, interest and claim of this commonwealth to all and every part of the lots and lands included in said borough, which are held and occupied by any person or persons, religious societies, or bodies politic, deriving their authority from the late proprietaries, are hereby released, confirmed and forever quit claimed to **such person or persons, religious societies, and bodies politic**, so occupying and holding the same, and all the right, interest and claim of this state to the remainder of the lots and lands contained within said borough, are hereby released, remised and forever quit claimed to the corporation for the use of said borough: Provided always, that nothing herein contained shall ever be construed to relinquish or impair any right or interest the state may have in and to any lands within the bounds of the reputed manor of Springetsbury, other than those within the borough aforesaid, nor as a guarantee of the state to the lands or lots within the borough aforesaid, nor to defeat and impair

the claim or title of any person or persons to the lands or lots within the borough aforesaid.

Approved March 7, 1805. Recorded in L. B. No. 10, p. 95.

CHAPTER MMDLXI.

AN ACT AUTHORIZING THE GOVERNOR TO APPOINT COMMISSIONERS TO ASCERTAIN THE BEST MODE OF IMPROVING THE NAVIGATION OF THE RIVER OHIO.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be, and he is hereby authorized and required to appoint two commissioners on the part of this commonwealth, to join with commissioners to be appointed by the states of Virginia, Kentucky and Ohio, respectively, (if those states shall appoint such commissioners) to view the rapids of the river Ohio, and consider the proper means of opening and improving the navigation of the same; and also to obtain as nearly as may be, an estimate of the expense necessary for that purpose, and the reasonable proportion to be advanced by each state, according to the probable advantages they may respectively receive; which commissioners thus appointed, shall meet at such time and place as the executives of the several states concerned shall appoint, and the commissioners appointed on the part of this state, after having attended to the duties of their appointment, shall report the result thereof to the governor of this commonweallh, in order that he may lay the same before the legislature for their approbation; and the commissioners aforesaid shall receive the sum of four dollars per day, for each day necessarily spent in that service, to be paid by warrants drawn by the governor on the treasurer of this commonwealth.

Approved March 7, 1805. Recorded in No. 10, p. 96.

CHAPTER MMDLXII.

A SUPPLEMENT TO THE ACT, ENTITLED AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD, FROM THE INTERSECTION OF FRONT STREET AND THE GERMANTOWN ROAD, IN THE NORTHERN LIBERTIES OF THE CITY OF PHILADELPHIA, THROUGH FRANKFORD AND BRISTOL, TO THE FERRY AT MORRISVILLE, ON THE RIVER DELAWARE. (3).

Whereas the president, managers and company of Frankford and Bristol turnpike road, and sundry citizens of Bucks county, by their petitions to the legislature, have represented, that it would be beneficial to the public to have a permanent bridge erected across Neshaminy creek, and that further legislative provisions are necessary for the speedy accomplishment of such a measure: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the said president, managers and company shall, within the space of four years, erect or cause to be erected, in a permanent workmanlike manner, a good substantial bridge of stone, wood or iron, or other such materials as to them shall seem adequate and proper, over the Neshaminy creek, at the place where the present road now passes over said creek, or as near thereto as may be consistent with economy and public utility; the said bridge to be at least thirty feet wide, and to consist of one or more arch or arches with stone abutments, and one or more pier or piers if necessary, and to have a draw therein, agreeably to the provisions of the tenth section of the act⁽¹⁾ to which this is a supplement.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president, managers, and company shall have perfected the said bridge, they shall give notice thereof to the governor of this commonwealth, who shall thereupon forthwith nominate and appoint three disinterested and skillful persons to view and examine

the same, and report to him in writing, whether the same is executed in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers and company to erect and fix such gate or gates, upon or near the said bridge, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons passing over the same with horses, cattle, carts and carriages, or on foot.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That when a good and complete bridge is erected over the said Neshaminy creek, in manner aforesaid, the property of said bridge, shall be vested in the said president, managers and company of the Frankford and Bristol turnpike road, and their successors, who may demand and receive toll agreeably to the following rates, which shall be written or printed, and published or placed on or near the said bridge, for the information of passengers, viz. for every coach, landau, phaeton, stage-wagon, or other pleasurable carriage with four wheels, drawn by four horses or mules, the sum of twenty cents; and for any such carriage drawn by two horses or mules, the sum of twelve cents; and for any such carriage drawn by one horse or mule, the sum of nine cents; for every wagon with four horses or mules, the sum of seventeen cents; and for every carriage of the same description, drawn by two horses or mules, the sum of twelve cents; for every chaise, riding-chair, sulky, cart or other two-wheel carriage, or a sleigh or sled with two horses or mules, the sum of nine cents; and so in proportion, if more horses or mules are added to the number herein mentioned; and for such carriage drawn by one horse or mule, the sum of six cents; for a single horse or mule and rider, the sum of three cents; for every led horse or mule the sum of two cents; for every foot-passenger, the sum of one cent; for every head of horned cattle, the sum of one cent; for every sheep and swine, the sum of one half cent; and if any toll-gatherer shall demand and receive greater

toll from any person or persons than such toll-gatherer is authorized to demand and receive, by virtue of this act, such toll-gatherer, shall forfeit and pay the sum of twenty dollars for every such offense; to be equally divided between the poor of the townships of Bensalem and Bristol, and for the payment of which the said company shall be responsible: Provided, that no toll shall be demanded from any militia man, in going to or returning from a training in the militia.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That in fixing the toll of all carriages drawn wholly or in part by oxen, two oxen shall be estimated equal to one horse.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That when the said bridge shall be erected and completed, and all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained, the said president and managers shall lay before the general assembly of this commonwealth, an abstract of their accounts, showing the whole amount of capital expended in the erecting of said bridge, and also the income and profits arising from the said tolls, together with an exact account of the costs and charges of keeping the said bridge in repair, and all other contingent costs and charges to the end that the clear annual income and profits may be known; and at the end of every year, after the said bridge is completed, they shall render to the general assembly, a like abstract of their accounts; and if at any time the said clear income and profits thereof shall exceed a dividend of nine per centum per annum, the surplus above that amount shall be appropriated, by the said president and managers, to the purchase of such share or shares of the Frankford and Bristol turnpike stock as the said surplus will be found adequate to purchase, until all the shares shall be so purchased, and the subscribers to the said Frankford and Bristol turnpike stock shall determine by lot, from time to time, whose share or shares shall be paid off by the money arising as aforesaid, for which shares the said persons shall receive the sums which were originally paid for each

respective share, and when the whole number of shares shall be purchased, the said bridge, together with the road, shall be free.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall willfully pull down, break or destroy, with intent to injure any part or parts of the abutment or abutments, pier or piers, or any part or parts of a toll-house, gate or bar, or other property of the said corporation, appurtenant to or erected or made for the use and convenience of the said bridge, or for the use of the person employed for the conducting the business thereof, or shall willfully, without the orders and consent of the said corporation, or any person or persons authorized by them, obliterate, deface or destroy the letters, figures or other characters, in any written or printed list of the rates of tolls affixed in any place or places, for the information of passengers and others, or who shall willfully and maliciously obstruct or impede the passage over the said bridge, or any part or parts thereof, he, she or they so offending, shall each of them forfeit and pay to the president, managers and company the sum of twenty dollars, to be sued for and recovered before any justice of the peace, in like manner and subject to the same rules and regulations as debts of the like amount may be sued for and recovered, and he, she or they so offending may and shall remain liable to actions at the suit of the said president, managers and company for further damages for such wrongs, if the said sum or sums herein mentioned be not sufficient to repair and satisfy said damages.

Approved March 7, 1805. Recorded in L. B. No. 10, p. 97.
Note ('). Chapter 2356. Supra this volume, p. 318.

CHAPTER MMDLXIII.

AN ACT FOR THE FURTHER REGULATION OF THE BOROUGH OF PITTSBURGH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the inhabitants of the borough of Pittsburgh, who shall have resided within the same six months immediately preceding the election, and who shall in other respects be entitled to vote for members of the general assembly, shall be fully competent to vote at the elections of officers for said borough.

Approved March 7, 1805. Recorded in Book No. 10, p. 100.

See Chapter 1771; 15 Statutes at Large, p. 161. (Act April 22, 1794, erecting Pittsburgh into a borough).

CHAPTER MMDLXIV.

AN ACT FOR THE RELIEF OF JOHN M'ELNAY.

Whereas it has been represented to the legislature that John M'Elnay, a soldier in captain Philip Albright's company of the first regiment of riflemen, commanded by colonel Samuel Miles, in the service of the United States during the revolutionary war, had, early in the spring of one thousand seven hundred and seventy-six, enlisted to serve until the first day of January, one thousand seven hundred and seventy-eight, and continued in the service until the battle of Long Island, in the month of August following, when he was taken prisoner by the British troops; that, when he was released, he was in so bad a state of health, that he lay a considerable time in the hospital in Philadelphia, and there received a forlough to go home; that he continued sick and incapable of doing duty until the term of his enlistment expired: And whereas it appears, that he hath never received any pay for his services later than for the month of August, one thousand seven hundred and seventy-six: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the accounting officers be and they are hereby directed to settle the arrearages of pay due to John M'Elnay, from the time of his enlistment to the

end thereof, and the amount shall be paid out of any unappropriated monies in the treasury of this commonwealth, on a warrant to be drawn by the governor in favor of John M'Elnay aforesaid.

Approved March 14, 1805. Recorded in L. B. No. 10, p. 100.

CHAPTER MMDLXV.

AN ACT TO RAISE, BY WAY OF LOTTERY, A SUM OF MONEY FOR THE BENEFIT OF PENNEPACK SCHOOL.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That Theophilis Harris, Joshua Jones, Jonathan Scholfield, Jacob Duffield, Richard Whitton, John Northrop and Enoch Wright, be, and they are hereby appointed commissioners to raise, by way of lottery, a sum not exceeding five thousand dollars, to be applied to the defraying of the expenses of building and completing Pennepack school-house, in the county of Philadelphia, and other useful improvements for the benefit of the said school, in such place and manner as to the trustees of the said institution, or a majority of them may appear most beneficial to the said school.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That each of the said commissioners shall, previous to his entering upon the duties of his office, take and subscribe an oath or affirmation, diligently and faithfully to perform the duties entrusted to him, and at least two of them shall attend at the drawing of each day, and when the whole is completed shall cause a true and accurate list of the fortunate numbers in the said lottery to be published, in at least two newspapers printed in the city of Philadelphia; and the expences attending the carrying of this act into effect shall be paid by the said commissioners out of the proceeds of the said lottery.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners be and they are hereby authorized to settle and adjust all accounts which may be exhibited by any person or persons legally employed in carrying this act into effect.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners, previous to selling any tickets in the said lottery, shall lay the scheme or schemes thereof before the governor for his approbation, and shall also enter into bond or bonds to the governor for the due and faithful performance of the several duties imposed by this act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months after publication aforesaid, shall be considered as relinquished for the benefit of the institution.

Approved March 14, 1805. Recorded in L. B. No. 10, p. 101.

CHAPTER MMDLXVI.

AN ACT FOR THE RELIEF OF ANDREW BOYD, FORMER TREASURER OF CHESTER COUNTY.

Whereas Andrew Boyd, late treasurer of Chester county, on a settlement of his accounts with the comptroller general, appears to be indebted to the commonwealth in the sum of two thousand three hundred dollars and eighty-six pounds, fourteen shillings and four pence, arrearages of state taxes: And whereas it has been represented to the legislature, that the said deficiency was occasioned partly by the unhappy circumstances of his wife becoming deranged, and in his absence destroying not only his books and papers, but also destroying all the money on which she could lay her hands: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That Andrew Boyd, late treas-

urer of Chester county be, and he is hereby exonerated and discharged from the payment of the balance which is stated to be due by him, to the commonwealth.

Approved March 14, 1805. Recorded in L. B. No. 10, p. 102.

CHAPTER MMDLXVII.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY FOR THE PURPOSE OF OBTAINING SLATE FROM QUARRIES WITHIN THE COUNTY OF NORTHAMPTON, SUITABLE FOR ROOFING HOUSES, AND FOR OTHER PURPOSES.

Whereas James Bell, John R. Griffiths and Adam Traquair have represented to the legislature, that they are owners of a tract of land in the county of Northampton, containing a quarry of slate, suitable for roofing houses and for other purposes, and that they and several other persons are willing to enter into a subscription for the purpose of opening the same and likewise other quarries on an extensive scale, if the legislature would grant them a charter of incorporation: And whereas such an object is deserving of the patronage and encouragement of the legislature: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the said James Bell, John R. Griffiths and Adam Traquair, Paul Beck, John Bennet and John Miller, stone cutter, be, and they are hereby appointed commissioners to do and perform the several duties hereinafter mentioned; that is to say, they shall and may on or before the twenty-second day of April next, procure a book, and therein enter as follows: "We, whose names are hereunto subscribed, promise to pay unto the president and managers of the Pennsylvania slate company, one hundred dollars for every share of stock in the said company set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the said president and managers, in pursuance of an act of the general assembly of this

commonwealth, entitled, "An act to enable the governor of this commonwealth to incorporate a company for the purpose of obtaining slate from quarries within the county of Northampton, suitable for roofing houses and for other purposes;" and the said commissioners shall thereupon give notice in at least two of the daily newspapers printed in the city of Philadelphia, for two weeks at least, of the time and place, when and where the said book shall be opened to receive subscriptions as aforesaid, at which time and place some three of the said commissioners shall attend for the space of six juridical days successively, (if so long shall be necessary) and shall, on every such day, keep the said book open for at least three hours, and during such time receive the subscriptions of all persons of lawful ability to contract, who, for themselves or for others, (being thereto duly authorized) shall offer to subscribe in said book, and shall pay, or tender at the same time, to the said commissioners, the sum of twenty dollars as a deposit and part payment for every share so offered to be subscribed, and each person shall be at liberty to subscribe any number of shares that he shall think proper, until the whole number of shares subscribed for shall amount unto two hundred; and if, at the expiration of the said six days, there shall not be two hundred shares subscribed for in the said book, the said commissioners may adjourn, from time to time, until the said number of shares shall be subscribed; of which adjournment, notice shall be given in at least one newspaper printed in Philadelphia; and when the said subscriptions shall amount to the number aforesaid, the book shall be closed.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That whenever the said subscription shall amount to one hundred or more shares, the said commissioners shall return to the governor a full and perfect list of all the subscribers to the said stock, with the number of shares by them respectively subscribed, and the governor shall thereupon, by letters patent under his hand and the seal of this commonwealth, create and erect the subscribers, and if the said subscriptions be not full at the time, then also those who shall afterwards subscribe, into one body politic and corporate

in deed and in law, by the name, style and title of "The president, managers and company for the purpose of obtaining slate from quarries within the county of Northampton;" and the said subscribers, so as aforesaid incorporated, shall have perpetual succession, and shall be able to sue and be sued, and enjoy all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock and the increase and profits thereof, and of enlarging the same, by new subscriptions, from time to time, in such manner and form as they shall judge proper, if such enlargement be found necessary to fulfill the intent of this act, and of purchasing, for the purposes aforesaid, taking and holding to them and their successors and assigns, in fee simple, or any less estate a quantity of ground within the county aforesaid in one or more parcels, not exceeding in all one thousand acres; and all such other tenements and hereditaments as shall be necessary to them in the prosecution of their works, and of doing all and every other act, matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the six persons first named in the said letters patent shall, as soon as conveniently may be, give notice in two of the public daily papers printed in the city of Philadelphia, of a time and place by them to be appointed, not less than ten days from the time of issuing the first notice at which time and place the subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers, by ballot to be delivered in person or by proxy, one president, three managers, one treasurer, and such other officers as they shall judge necessary to conduct the business of the said company for one year, and until other such officers shall be chosen, according to such rules as shall be made for that purpose by the company convened, and shall and may make such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this commonwealth as shall be necessary for the well ordering the affairs of the said company and the same to alter and repeal at pleasure: Provided always, that no person or partnership

shall have more than five votes at any such election, or, in determining any question arising at such meeting, whatever number of shares he or they may be entitled unto, and the election, of president and managers shall be held at least once in every year, of which public notice shall be given at least ten days previously thereto.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That all shares of stock of the said company shall be transferable by assignment, executed in person or by attorney, in presence of the president or treasurer of the company, in such form as the president and managers or a majority of them shall direct; subject nevertheless to all payments due or that may become due on every share so as signed.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That if any subscriber, after forty days notice given in two of the public daily newspapers printed in Philadelphia, of the time and place appointed for the payment of any proportion of the said capital stock, shall neglect to pay such proportion at the place appointed, for the space of thirty days after the time appointed, every such stockholder, or his assignee, shall forfeit the share or shares on which he shall be so in arrear to the company, who then may sell the same to any other person or persons willing to purchase, for such price as can be obtained therefor.

Approved March 14, 1805. Recorded in L. B. No. 10, p. 103.

CHAPTER MMDLXVIII.

A SUPPLEMENT TO AN ACT, ENTITLED, "AN ACT TO ERECT PARTS OF LYCOMING, HUNTINGDON AND SOMERSET COUNTIES INTO SEPARATE COUNTY DISTRICTS." (1).

Whereas it hath been represented to the legislature, that doubts are entertained of the power and authority of the commissioners of Centre county, to levy and assess taxes within the county districts of Clearfield and M'Kean, which were, by the act⁽¹⁾ to which this is a supplement, annexed to Centre

county; and as it has been represented that divers costs and expenses have accrued, and are likely to accrue, from the reward allowed for killing of wolves, the laying out and improving roads, bills of prosecution, &c. within said county districts, and which of right ought to be discharged by a tax drawn from said county districts: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the power and authority of the commissioners and other county officers of Centre county, shall extend over and be as full and effectual, to all intents and purposes, over and within the county districts of Clearfield and M'Kean, as at this time it is or ought to be in and over the county of Centre, and the inhabitants of the county districts of Clearfield and M'Kean, so long as they shall remain annexed to Centre county, shall, in common with the inhabitants of the said county of Centre, exercise and enjoy similar and equal rights and privileges, and shall be subject to similar regulations, in as full and ample a manner as if they now were a component part of Centre county.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the commissioners and treasurer of Centre county to keep a separate and distinct account of the monies raised and collected from the county districts of Clearfield and M'Kean respectively, and shall therefrom pay and discharge all and singular the costs and expenses of levying, assessing and collecting the same, costs of prosecution chargeable to the county, arising from suits instituted against persons within the said county districts, and all rewards for killing wolves and other animals of prey, and also all costs and expenses of laying out, opening and improving roads, as well as other costs and expenses incidental to the said county districts, and the remainder or surplus thereof shall remain for the use of the county district in which it shall have been raised.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the recorder of deeds for Centre county to provide a separate book, or books, for the purpose of recording therein the deeds of lands lying within each of the said county districts, and shall therein enter and record all and every such deed or deeds as shall come to his hands to be recorded, and shall deliver over said books to the recorders of deeds of Clearfield and M'Kean counties respectively when such recorders shall or may be appointed and apply for the same.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the county of Clearfield shall be an election district, and the electors thereof shall hold their general elections at the house of Benjamin Jordan in said district, and shall be entitled to vote for members of the federal and state legislatures, sheriffs, commissioners, and other county officers for Centre county.

Approved March 14, 1805. Recorded in L. B. No. 10, p. 105.

Note (*). Chapter 2478. Supra this volume, p. 769.

CHAPTER MMDLXIX.

AN ACT FOR THE RELIEF OF FREDERICK FULTZ.

Whereas it has been represented to the legislature, that Frederick Fultz, now an inhabitant of Chester county, entered the service of his country for three years, in the revolutionary war, on the twelfth day of February, one thousand seven hundred and seventy-seven, under the command of Captain John Dennis, in colonel John Patton's regiment of foot; that he was taken prisoner on the twenty-fifth day of April, in the same year, and held in captivity in New York sugar-house near three years; that he was wounded in the service and lost one of his eyes in the time of captivity; that application for his pay was made to the comptroller general on the fourteenth day of March, one thousand seven hundred and ninety-five, and being informed that he was barred by the act of limitation, that he

is aged and infirm, and much reduced and unable to maintain himself and family by manual labor, and that he has not received any compensation for his services: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That Frederick Fultz be, and he is hereby allowed three dollars and thirty-three cents per month for and during his natural life, payable in half yearly payments; to commence from the twelfth day of February last past, on warrants drawn by the governor out of any unappropriated money in the treasury of the commonwealth.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 107.

CHAPTER MMDLXX.

AN ACT TO PROHIBIT JUSTICES OF THE PEACE WITHIN THE COUNTY OF CENTRE, FROM HAVING JURISDICTION IN CIVIL CASES, WITHIN THE COUNTIES OF CLEARFIELD AND M'KEAN.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the justices of the peace of the county of Centre, are hereby declared not to have jurisdiction in cases of debts or demands, cognizable within either of the county districts of Clearfield and M'Kean; any law or laws to the contrary hereof notwithstanding.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 107.

CHAPTER MMDLXXI.

ON ACT EXTENDING THE TIME HERETOFORE ALLOWED TO MARCUS HULINGS, TO ERECT A BRIDGE OVER FRENCH CREEK.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania in General Assembly met, and it is hereby enacted by the authority of the same, That Marcus Hulings shall have two years more allowed him to complete the bridge over French creek, which he is authorized to build by an act passed the fifth day of April, one thousand eight hundred and two,⁽¹⁾ over and above the time allowed him in said act.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 108.

Note ⁽¹⁾. Chapter 2294. *Supra*, this volume, p. 143.

CHAPTER MMDLXXII.

AN ACT REGULATING AND CONTINUING THE DISTRIBUTION OF DONATION LANDS.

Whereas it appears, that sundry lots of donation lands have lately been drawn and patented, which lots are situate within the easternmost part of the second donation district commonly called the Struck district, which were heretofore left out of the wheel by the late supreme executive council on the report of their agent, General William Irvine, that said lands were unfit for cultivation: And whereas it appears that the aforesaid Struck district has been settled under the act of the third day of April, one thousand seven hundred and ninety-two, entitled "An act for the sale of the vacant lands within this Commonwealth,"⁽¹⁾ and in many instances large and valuable improvements have been made thereon: And whereas the drawing and patenting to the officers and soldiers the lots situate as aforesaid, will have a tendency to defeat the benevolent intentions of the legislature towards that meritorious class of citizens, and inevitably involve the patentees and actual settlers in disputes and expensive law suits: To prevent those inconveniences,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be the duty of the land officers to take out of the wheel all tickets for donation lots, situate in the easternmost part of the second donation

district commonly called Struck district aforesaid, which tickets shall not again be put in the wheel, but said lands shall be reserved for and granted to those who may have settled the same, agreeably to the aforesaid act⁽¹⁾ of the third day of April, one thousand seven hundred and ninety-two, and all such settlers who shall fully comply with the conditions of said act, and the subsequent acts relative to the disposal of the vacant lands within this commonwealth, shall obtain patents for the same, in the usual manner, and the officers of the land office on the application of any person holding donation lands by patent within the bounds aforesaid, or within that part usually called the triangle, and the applicant or applicants aforesaid, releasing his, her or their patent or patents to the commonwealth, shall have another unappropriated lot or lots of equal quantity; which said lot or lots shall be patented to the person or persons so releasing in the usual manner, and free of expense.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That this act and the "Act to complete the benevolent intentions of the legislature of this commonwealth, by distributing the donation lands to all who are entitled thereto," passed the second day of April, in the year one thousand eight hundred and two,⁽²⁾ (excepting the limitation clause of the last recited act) shall be and continue in force until the first day of April, in the year one thousand eight hundred and six.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 108.

Note ⁽¹⁾. Chapter 1621; 14 Statutes at Large, p. 232.

Note ⁽²⁾. Chapter 2287. Supra this volume, p. 131.

CHAPTER MMDLXXIII.

AN ACT TO ESTABLISH AND CONFIRM THE PLACE FOR HOLDING THE COURTS OF JUSTICE, AND TO PROVIDE FOR ERECTING THE PUBLIC BUILDINGS FOR THE USE OF INDIANA COUNTY.

Whereas in pursuance of an act passed the thirtieth day of March, one thousand eight hundred and three, entitled "An act to establish the place for holding the courts of justice in the

county of Indiana,"⁽¹⁾ it appears that the legislature of this commonwealth did appoint William Jack, James Parr and John Pomroy, commissioners to perform the duties enjoined and required by the said act: And whereas it appears, by the report of the said commissioners, to the house of representatives, and now before the general assembly, that the said commissioners have performed the duties enjoined on them: In order therefore to complete and secure to the said county the benefits intended by the act aforesaid,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That Charles Campbell, Randel Loughlin and John Wilson, be and hereby are appointed trustees for the county of Indiana, and the said trustees, or a majority of them, are hereby authorized and required to survey, or cause to be surveyed two hundred and fifty acres of land, agreeably to a description given of the situation and boundary thereof, in the grant and obligation of Alexander Craig for George Clymer, made by him to the present legislature, for the use of the county of Indiana, and the said trustees are hereby authorized and required to lay out a convenient lot or lots, not exceeding four acres, whereon the public buildings for the county of Indiana shall be erected, and the residue of the said two hundred and fifty acres shall be laid out into town-lots and out-lots, in such manner and with such streets not more than one hundred nor less than seventy feet wide, and such lanes and alleys for public uses as the said trustees shall direct: Provided, that not more than two-thirds of an acre, nor less than one-fourth of an acre, shall be contained in any town-lot, nor more than three acres in any out-lot; and the said town being so surveyed and laid out, shall be called Indiana; and the streets, lanes and alleys within the town and out-lots shall be and remain common highways for ever.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the said trustees, or a majority of them, to sell, by public auction, the said town-lots and out-lots, at such time as they may judge

most advantageous to the county; previously to which, the said trustees shall advertise the same, three times at least, in one or more of the newspapers printed in Pittsburgh, Washington, Greensburgh, Lancaster and Philadelphia, two months before the day appointed for such sale; and, before the advertisements are published as aforesaid, transmit a map or draught of the town and out-lots to the secretary of the commonwealth, to be deposited in his office; and with the money arising from the sale of the said town-lots and out-lots, the trustees shall proceed to erect a court house, jail and necessary public building for the use of the county of Indiana: Provided, that before the aforesaid trustees shall proceed to the performance of any other of the duties hereby enjoined and required, they shall demand and receive a deed or deeds of conveyance in fee simple from Alexander Craig for George Clymer, agreeably to the terms expressed in the aforesaid obligation for that purpose, given by the aforesaid Alexander Craig for George Clymer, and shall procure the deed or deeds to be recorded in the office for recording of deeds in the county of Westmoreland; and when the said trustees have so done, they shall have authority, and it shall be their duty to make out and grant sufficient deeds in fee simple for the town-lots and out-lots by them sold in pursuance of this act.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the aforesaid trustees, or a majority of them, shall, within one year from and after the courts of law and board of commissioners shall have been established and opened by law in and for said county, surrender and convey to the said commissioners, and their successors in office, in trust for the use of the county, all trusts vested in them, or a majority of them, by this act; and the said commissioners of the county are hereby empowered and required to do and perform the several duties which may remain to be done, as fully and effectually as the said trustees might or could have done, and the said county commissioners shall have power, and it shall be their duty to call upon and compel the aforesaid trustees, to settle their accounts, and to pay over the money to the county treasurer, if any such money remains

in their hands, or in the hands of either of them, due to the county of Indiana, from the sale of the town-lots or out-lots aforesaid: Provided, that at any time before the said county of Indiana is organized, and the courts of law and board of commissioners are in operation, it shall be the duty of the court of common pleas for the county of Westmoreland, on the petition of fifty freeholders of the county of Indiana, to appoint auditors with as full powers to compel the said trustees to settle their accounts, as the county commissioners might or could do in pursuance of the aforesaid powers.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That each of the trustees appointed to fix on the seat of justice, and each of the trustees appointed by this act, shall receive one dollar and thirty-three cents for every day he may have been, or shall be, employed in performing the duties of the aforesaid trust, together with all expenses necessarily incurred, for assistance in laying out lots, streets, lanes and alleys; to be paid by the treasurer of the county of Westmoreland, on orders drawn by the commissioners of said county out of the county taxes levied on the county of Indiana.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall as soon as may be, file a draught, return and report of the survey and proceedings under and by virtue of this act, in the office of the recorder of deeds in and for the county of Westmoreland.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That so much of the act passed the thirtieth day of March, one thousand eight hundred and three,⁽¹⁾ as authorizes the commissioners therein named to be trustees for the said county of Indiana is hereby repealed and made void.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 109.

Note (1). Chapter 2374; Supra this volume, p. 434.

The Act which appointed these commissioners (viz: William Jack, James Parr and John Pomroy), is Chapter 2374, viz., the Act of March 30, 1803, entitled "An Act to erect certain parts of Westmoreland and Lycoming counties, into a separate county," (P. L. 573), Supra this volume, p. 434. Evidently therefore the title as recited in the beginning of the act in the text is an error.

CHAPTER MMDLXXIV.

AN ACT TO EMPOWER JOHN KEEN, GUARDIAN OF ESTHER THOMAS,
AN INFANT, TO SELL AND CONVEY REAL ESTATE BELONGING TO
THE SAID INFANT.

Whereas Esther Vansciver, late of the Northern Liberties of the city of Philadelphia, deceased, in her lifetime was seized in fee of one fifth part, the whole into five equal parts to be divided, of a certain messuage or tenement and lot or piece of ground thereunto belonging, situate in the city of Philadelphia, containing in breadth twenty-five feet nine inches, and in length or depth one hundred and seventy-eight feet, bounded eastward by a lot formerly of William Maltby, but afterwards of George Emlen, deceased, southward by Chestnut street, westward by a lot formerly of William Hudson, and northward by the back end of High street lots, with the appurtenances; and the said Esther being so seized as aforesaid died intestate, leaving the following persons her heirs at law; to wit, her sons George Vansciver and Jacob Vansciver, her daughter Susanna Lane, and her granddaughter Esther Thomas; whereupon the one-fourth part of the said one-fifth part of the said messuage and lot, with the appurtenances, descended to the said Esther Thomas: And whereas John Keen, of the Northern Liberties of the city of Philadelphia, house-carpenter, is the guardian of the said Esther Thomas: And whereas it is the interest of the said Esther Thomas that the same estate should be sold, but she is incapable of making a title thereto, by reason of her infancy: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be lawful for the said John Keen, the guardian of the said Esther Thomas, to sell and convey the said one-fourth part of the said one-fifth part of the said messuage and lot, with the appurtenances, and also make to the purchaser or purchasers thereof, and their heirs and assigns, such deed or deeds as will assure and con-

vey to the said purchaser or purchasers all the right, title and interest which the said Esther hath in the said one fourth part of the one-fifth part of the same estate: Provided, that the said John Keen, before he proceeds to sell or convey the same, shall give bond with one sufficient surety, to be approved by the judges of the orphan's court, in a penal sum double the amount of the value of the said one-fourth part of the said one-fifth part of the said estate, conditioned that the said John Keen do well and faithfully account to the said Esther, her heirs, executors and administrators, for the purchase-money; which bond shall be filed in the orphan's court of the county of Philadelphia.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 112.

CHAPTER MMDLXXV.

AN ACT TO ERECT THE TOWN OF GREENCASTLE, IN THE COUNTY OF FRANKLIN, INTO A BOROUGH.

Whereas the inhabitants in the town of Greencastle, in Franklin county, have set forth in their petition to the legislature, that they experience many inconveniences which the existing laws of the commonwealth are inadequate to remedy, and for remedy have prayed that the said town may be incorporated: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met. and it is hereby enacted by the authority of the same, That the town of Greencastle aforesaid shall be, and the same is hereby erected into a borough, which shall be called the borough of Greencastle; which borough shall be comprised within the following boundaries; to wit, Beginning at a post on the west side of Carlisle street and opposite David Ranken's meadow; thence south fifty degrees east ninety-three perches along said Ranken's line to a white oak sapling; thence south forty-one degrees west one hundred and thirty-eight perches to a post; thence north fifty-nine degrees west thirty perches to a post; thence south eighty-

seven degrees west twenty perches to a post; thence north forty-one degrees west ninety-three perches to a post; thence north forty degrees east forty perches to a post; thence north fifty-one degrees east sixty-two perches to a post; thence south seventy-two degrees east sixty-two perches to a post; thence north eighteen degrees east twenty-two perches to a post; thence south seventy-five degrees east sixteen perches to the place of beginning.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall be lawful for all persons entitled to vote for members of the legislature, who have resided in said borough twelve months previous to any election of borough officers, to meet at the house of John Nigh, or at such other place in said borough as may be fixed by the by-laws of the corporation, on the first Tuesday of May in every year, and then and there elect by ballot, between the hours of one and seven o'clock in the afternoon of the same day, one reputable citizen residing therein, who shall be styled the burgess of the said borough, and five reputable citizens to be a town council, and shall also elect, as aforesaid, one reputable citizen as high constable; but previously to such election, the inhabitants shall elect two reputable citizens as judges, one as inspector, and the judges shall appoint two persons to act as clerks of said election, which shall be regulated and conducted according to the general election law of this commonwealth so far as relates to receiving and counting votes, and who shall be subject to the same penalties for malpractices as by the said law is imposed; and the judges, inspector and clerks, before they enter upon the duties of their respective offices, shall take an oath or affirmation before any justice of the peace of the said county, to perform the same with fidelity; and after the said election shall be closed shall declare the persons having the greatest number of votes to be duly elected; and in case that any two or more candidates should have an equal number of votes, the preference shall be determined by lot, to be drawn by the judges and inspector, whereupon duplicate returns thereof shall be signed by the said judges, one of which shall be transmitted to each of the per-

sous elected, and the other filed among the records of the corporation; and in case of death, resignation, removal, refusal to accept, or neglect or refusal to act after acceptance, of any of the said offices, the burgess, or in case of his death, absence or inability to act, or when he neglects or refuses to act, the first named of the town council shall issue his precept, directed to the high constable, or when there is no high constable, or when he neglects or refuses, or refuses to act, then to the constable of Antrim township in the said county, requiring him to hold an election, in manner aforesaid, to supply such vacancy, giving at least ten days notice thereof by advertisements set up at four of the most public places in the said borough.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That after the first election held in pursuance of this act, the burgess and town council duly elected, as before directed, and their successors, shall be one body politic and corporate in law, by the name and style of, "The Burgess and Town Council of the Borough of Greencastle," and shall have perpetual succession, and the said burgess and town council aforesaid, and their successors, shall be capable in law to have, receive, hold and possess goods and chattels, lands and tenements, rents, liberties, jurisdictions, franchises and hereditaments to them and their successors, in fee simple or otherwise, not exceeding the yearly value of four thousand dollars, and also to give, grant, sell, let and assign the same lands, tenements, hereditaments and rents, and by the name and style aforesaid they shall be capable in law to sue and be sued, plead and be impleaded, in any of the courts of law in this commonwealth, in all manner of actions whatsoever, and to have and to use one common seal, and the same, from time to time, at their will to change and alter.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person duly elected as burgess, or a member of the town council, or constable, as aforesaid, and having received notice thereof, as aforesaid, shall refuse or neglect to take upon himself the execution of the office to which he shall have been elected, every person so

refusing or neglecting shall forfeit and pay the sum of twenty dollars; which fine and all other fines and forfeitures incurred and made payable in pursuance of this act, or of the by-laws and ordinances of the town council, shall be for the use of the corporation.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the burgess, town council and high constable, and each of them, before entering upon the duties of their respective offices, shall take an oath or affirmation before any justice of the peace of said county, to support the constitution of the United States and of this state, and to execute the duties of their respective offices with fidelity; and the certificates of such oaths and affirmations shall be filed among the records of the said corporation.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall be lawful for the town council to meet as often as occasion may require, and enact such by-laws, and make such rules, regulations and ordinances, as shall be determined by a majority of them, necessary to promote the peace, good order, benefit and advantage of said borough; particularly of providing for the regulation of the market, streets, alleys, highways and water courses therein; they shall have power to assess, apportion and appropriate such taxes as shall be determined by a majority of them, necessary for carrying the said by-laws, rules and regulations into complete effect, and also to appoint a clerk, treasurer, two persons to act as street commissioners, and a clerk of the market, annually, and such other officers as may be deemed necessary from time to time: Provided, that no by-law, rule or ordinance of the said corporation, shall be repugnant to the constitution or laws of the United States or of this commonwealth, and that no person shall be punished for the breach of a by-law or ordinance made as aforesaid, until three weeks have expired after the promulgation thereof, by at least four advertisements set up in the most public places in said borough: And provided also, that no tax shall be laid in any one year, on the valuation of taxable property, exceeding one cent in the dollar, unless some object of general utility shall

be thought necessary; in which case, a majority of the freeholders of said borough, by writing under their hands, shall approve of and certify the same to the town council, who shall proceed to assess the same accordingly.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the burgess elected and qualified, agreeably to this act, is hereby authorized and empowered to issue his precept, as often as occasion may require, directed to the high constable, commanding him to collect all taxes assessed, and fines and forfeitures imposed by this act, or by the ordinances or regulations of the corporation, and the same to pay over to the treasurer; and the said burgess is hereby authorized to carry into effect all by-laws enacted by the council, and whatever else shall be enjoined upon him for the well ordering and governing the said borough; he shall have jurisdiction in all disputes between the corporation and individuals arising under the by-laws, regulations and ordinances.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the town clerk to attend all the meetings of the town council, when assembled upon business of the corporation, and perform the duty of clerk thereto, and keep and preserve the common seal and records of the corporation, and be answerable for the same, and also for the faithful discharge of all the duties which may be enjoined upon him by virtue of this act, or the acts of the corporation, whose attestation with the seal of the corporation, shall be good evidence of the act or the thing so certified.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the treasurer shall give security for the faithful discharge of the duties of the office, and for the safe delivery of all monies, books and accounts appertaining thereto into the hands of his successor, upon demand made by the burgess for that purpose.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the street commissioners, treasurer, constable and clerk of the market, as well as all

other officers who may be appointed by the corporation or council, shall render their accounts to the council once in every year, for settlement; and the said accounts being adjusted and settled accordingly, shall be forthwith published by the said council, showing particularly the amount of taxes laid and collected and of the expenditures.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the high constable to give notice of the annual elections of the said borough, by setting up advertisements at four of the most public places in the said borough, ten days previous thereto; he shall attend and see that the same is opened at the time, and in the manner directed by this act: Provided, that it shall be the duty of the constable of Antrim township, in the said county, to publish and superintend the election to be held on the first Tuesday of May next, as is herein before directed.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall think him or themselves aggrieved by any thing done in pursuance of this act, he, she or they may appeal to the next court of quarter sessions to be held for the proper county, upon giving security according to law, to prosecute, his, her, or their appeal with effect, and the court having taken such order therein as shall seem to them just and reasonable, the same shall be conclusive against all parties.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 113.

CHAPTER MMDLXXVI.

AN ACT TO RAISE, BY WAY OF LOTTERY, A SUM OF MONEY TO DEFRAY THE EXPENSE OF BUILDING A PRESBYTERIAN CHURCH IN THE VILLAGE OF MAYTOWN, IN THE COUNTY OF LANCASTER.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That George Hollinger, John Haldeman, Jacob Long, Philip Gorner, James Eagen and Fred-

erick Galbuch, be, and they are hereby appointed commissioners, to raise, by way of lottery, a sum of money not exceeding three thousand dollars, to be by them applied for defraying the expense of building a house of worship for the use of the German Presbyterian congregation in the village of Maytown, in the county of Lancaster.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the commissioners, before they proceed to sell any tickets, in the said lottery, shall lay such scheme thereof before the governor as shall meet his approbation, and enter into bonds to him for the due performance of their duty as prescribed by this act; and each of them before entering on the duties of his appointment, shall take and subscribe an oath or affirmation, diligently and faithfully to perform the duties hereby entrusted to him; and three or more of the said commissioners shall attend at the drawing of each day, and when the drawing shall be completed, they shall cause an accurate list of the fortunate numbers to be published, at least three times in the English and German newspapers printed in the borough of Lancaster and in the borough of York, and shall pay and discharge all the prizes that shall be demanded, by persons legally entitled thereto, within three months after the drawing shall be finished.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months after the publication, as aforesaid, shall be considered and deemed as relinquished for the benefit of said church.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 117.

CHAPTER MMDLXXVII.

AN ACT REQUIRING THE TRUSTEES OF MERCER COUNTY TO SURRENDER THEIR TRUST TO THE COMMISSIONERS OF SAID COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted

by the authority of the same, That the authority vested in the trustees of Mercer county, by an act passed March the twenty-fourth, one thousand eight hundred and three,⁽¹⁾ shall, from the first day of June next, cease and determine, and the said trustees shall, on or before the said day, deliver over and surrender to the commissioners of said county, for the time being, all monies, bonds, notes, books, documents, vouchers and papers which have come to their hands as trustees aforesaid, and are in anywise belonging or appertaining to their office and trust, under and in pursuance of the act aforesaid, and all the duties of the said trustees, which remained to be performed, shall therefrom be vested in and performed by the commissioners of Mercer county aforesaid.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 118.

Note (1). Chapter 2354. Supra, this volume, p. 300.

CHAPTER MMDLXXVIII.

AN ACT TO ENABLE THE GOVERNOR TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD, BY THE BEST AND NEAREST ROUTE, FROM THE BOROUGH OF SUNBURY, IN THE COUNTY OF NORTHUMBERLAND, TO THE BOROUGH OF READING, IN THE COUNTY OF BERKS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That Joseph Priestly and John Cowden, of the town of Northumberland; Charles Hall, of Sunbury, Dr. James Doogall, of Milton, Daniel Montgomery, junior, of Danville, Jacob Toppel, of Hamburgh, alias Kerchers-town, John Heister and James May, of Reading, Samuel Morris, Thomas Leiper, William Tilghman, and James Gibson of the city of Philadelphia, and William Hepburn, of the county of Lycoming, be, and they hereby are appointed commissioners to do and perform the several things hereinafter mentioned; that is to say, they shall, on or before the first Monday in June next, procure three books, and in each of them enter as

follows: "We, whose names are hereunto subscribed, do promise to pay to the president, managers and company of the Centre turnpike road leading from Reading to Sunbury, the sum of fifty dollars, for every share of stock in the said company set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers of the said company, in pursuance of an act of the general assembly of this commonwealth, entitled, "An act to enable the governor to incorporate a company for making an artificial road, by the best and nearest route, from the borough of Sunbury, in the county of Northumberland, to the borough of Reading, in the county of Berks, and passing through Hamburg, alias Kercherstown, witness our hands, the day of in the year of our Lord one thousand eight hundred and five;" and shall thereupon give notice in two of the public papers printed in the city of Philadelphia, one of which to be in the German language, and in one or more of the public papers printed at Reading and Northumberland respectively, for one calendar month at least, of the times and places when and where the said books shall be open to receive subscriptions for the stock of the said company; at which respective times and places some one of the said commissioners shall attend, and shall permit all persons of lawful age who shall offer to subscribe in the said books, in their own name, or the names of any other persons who shall duly authorize the same, for any number of shares in the said stock, and the said books shall be kept open, respectively, for the purpose aforesaid, at least six hours in every juridical day for the space of six days, or until the said book, opened in the city of Philadelphia, shall have one thousand shares therein subscribed; the said book opened at Reading, five hundred shares therein subscribed; and the said book opened at Northumberland, five hundred shares therein subscribed; and if at the expiration of the said six days, the books aforesaid, or any of them, shall not have the respective number of shares, as aforesaid, therein subscribed, the said commissioners respectively, may adjourn, from time to time, and transfer the said books from place to place aforesaid, until

the whole number of shares shall be subscribed; of which adjournments and transfer, the commissioners aforesaid shall give such public notice as the occasion may require, and when the whole number of shares subscribed, in all the said books, shall amount to two thousand, the same shall be closed: Provided always, that every person offering to subscribe in the said books in his own name, or any other name, shall previously pay to the attending commissioners the sum of five dollars, for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen, as hereinafter mentioned, to be by him, from time to time, invested in the name of and for the benefit of the said corporation, in some public fund or stock within the state of Pennsylvania.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when one thousand or the whole number of shares shall be actually subscribed, the said commissioners shall certify, under their hands and seals, the names of the subscribers and the number of shares subscribed by each, to the governor of this commonwealth, and thereupon it shall and may be lawful for the governor, by letters patent under his hand and the seal of the state, to create and erect the subscribers into one body politic and corporate, in deed and in law, by the name, style and title of "The President, Managers and Company of the Centre Turnpike Road leading from Reading to Sunbury;" by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary, to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, and of selling, transferring and conveying in fee simple, or for

any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners aforesaid, shall, as soon as conveniently may be, after the said letters patent are obtained, give notice in two of the public papers in Philadelphia, one of which shall be in the German language, and also in the Reading and Northumberland papers respectively, of a time and place by them to be appointed, not less than twenty days from the publication of the first notice, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose, by a majority of votes of the said subscribers, by ballot to be delivered in person or by proxy duly authorized, one president and twelve managers, one treasurer, and such other officers as they shall think necessary, to conduct the business of the said company for one year, and until other such officers shall be chosen, and make such by-laws, rules, orders and regulations, not inconsistent with the laws of this commonwealth, as shall be necessary for the well ordering the affairs of the said company: Provided always, that no person shall have more than ten votes at any election, or in determining any questions arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number: Provided nevertheless, that all future annual elections of the said corporation shall be held upon such notice, and in manner and form aforesaid, at such places as the managers aforesaid shall direct and appoint.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday of June in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing officers, as aforesaid, for the ensuing year, in manner aforesaid and at such other times as they shall be summoned by the

managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first to be chosen as aforesaid, shall procure certificates, to be written or printed, for all the shares of stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed and held, he paying to the treasurer, in part of the sum due thereupon, the sum of eight dollars for each share; which certificate shall be transferable at his pleasure, in person, or by attorney, in the presence of the president or treasurer, subject however to all payments due and to become due thereon, and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of said corporation, and for every certificate by him held shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places and be convened in such manner as shall be agreed on, for transacting their business, at which meetings five members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have power and authority to agree with and appoint all such surveyors, superintendents, artists and officers, as they shall judge necessary to carry on the intended works, and to fix their salaries or wages; to ascertain the times, manner and proportions when and in which the stockholders shall pay the money due on

their respective shares, in order to carry on the work; to draw orders on the treasurer for all monies necessary to pay the salaries or wages of persons by them employed, and for labor done and materials provided in the prosecution of the work, which orders shall be entered or registered in their book of minutes, and shall be signed by the president, or, in his absence by a majority of a quorum, and countersigned by their secretary; and generally to do all such other acts, matters and things as by this act, and the by-laws, rules, orders and regulations of the company shall be committed to them.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder, whether original subscriber or assignee, after thirty days notice in two of the newspapers published in Philadelphia, one of which shall be in the German language, and also in the Reading and Northumberland newspapers respectively, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, shall neglect to pay such proportion at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month, for every delay of such payment, and if the same and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sums before paid in part, and on account of such share, the same may be forfeited to the said company, at any public meeting of the managers thereof, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor; or in default of payment by any stockholder, of any such instalment as aforesaid, the said president and managers may at their election, cause suit to be brought in any court having competent jurisdiction for the recovery of the same together with the penalty aforesaid: Provided always, that no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable as

aforesaid, on the share or shares by him held at the time of such election, or general or special meetings of the said company, shall have been fully paid and discharged as aforesaid.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, their superintendents, surveyors, engineers, artists and chain-bearers to enter into and upon all, and every the lands, tenements and enclosures, in, through and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary for the making and constructing the said road, and also to survey, lay down, ascertain, mark and fix such route or track for the same road, as, in the best of their judgment and skill, will combine shortness of distance with the most practical ground from Sunbury to Reading as aforesaid.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall be lawful for the said president and managers, with their superintendents, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, wains and other carriages and beasts of draught and burden, to enter upon the lands, contiguous or near to the route and track of the said intended road, first giving notice of their intention to the owners or occupiers thereof, and doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making compensation for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree; or if they cannot agree, then upon an appraisement to be made, upon oath or affirmation, by three disinterested freeholders, mutually to be chosen, any two of them agreeing; or if either party, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace, of either of the counties of Northumberland or Berks, not interested therein: Provided, that under the last manner of appointing the said freeholders,

either of the parties may appeal to the court in the usual manner within six days from the time of giving the award; and upon tender of the appraised value, to cut down, dig, take and carry away any timber, stone, gravel, sand, earth or other materials there being most conveniently situated for making or repairing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company shall have power to erect permanent bridges over the creeks and waters crossed by the said route or track, whereon the same shall be found necessary, and shall cause a road not exceeding sixty feet in width, in any part thereof, to be laid out and made, from the borough of Sunbury to the borough of Reading aforesaid, of which sixty feet, the said president, managers and company shall be bound to make an artificial road of eighteen feet, in all parts, except on mountains, where it shall not be less than fourteen feet in width, of firm, compact and substantial materials, composed of wood, gravel, pounded stone or other small hard substances, in such a manner as to secure a solid foundation and an even surface, so far as the nature of the country and the materials will admit, in the whole extent of the said road wherever it shall be necessary, and the natural surface require it, so as to fulfil the duties of the said company towards the public, and to conform to the true intent and meaning of the present act; and shall forever hereafter maintain and keep the same in good repair: Provided, that no toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or to and from any place of public worship or funeral on days appointed for that purpose, or from the militia on days of muster: Provided nevertheless, that if the said road shall be laid out and founded over and upon any land, whereby the owners thereof shall suffer damage, the person or persons sustaining such damage may make application to the court of the county in which such damage shall have been done, and thereupon the court shall appoint six fit and disinterested persons to view and adjudge the amount of the damage so done,

which, if approved of by the court, shall be paid by the company.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said president managers and company shall have perfected any distance of the said road not less than fifteen miles, and so from time to time, any distance not less than five miles, progressively from the same, towards either of the boroughs aforesaid, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three skillful and judicious persons to view and examine the same, and report to him whether the road is so far executed in a complete and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers and company to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling on the same with horses, cattle and carriages.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said company having perfected the said road, or such part thereof, from time to time, as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons, using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding, leading or driving any horse or mule, or driving any cattle, hogs, sheep, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, from passing through the said gates or turnpikes, until they shall have respectively paid the same; that is to say, for every space of five miles in length of the said road, the following sums of money, and so in proportion for any greater or less distance, or for any greater or less number of hogs, sheep, or cattle; to wit, for

every score of sheep, four cents; for every score of hogs, six cents; for every score of cattle, twelve cents; for every horse or mule, laden or unladen, with his rider, or leader, three cents; for every sulky, chair or chaise, with one horse and two wheels, six cents; and with two horses nine cents; for every chariot, coach, phaeton, chaise, stage-wagon, coachee or light-wagon with two horses and four wheels, twelve cents; for either of the carriages last mentioned, with four horses twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums according to the number of wheels and of horses drawing the same; for every sleigh or sled, two cents, for each horse drawing the same; for every cart or wagon, or other carriage of burden, the wheels of which do not in breadth exceed four inches, four cents for every horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches and shall not exceed seven inches, three cents for each horse drawing the same; and when any such carriage as aforesaid shall be drawn by oxen or mules, in the whole or in part, two oxen shall be estimated as equal to one horse, and every ass or mule as equal to one horse in charging the aforesaid tolls.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons owning, riding in or driving any carriage of burden or pleasure as aforesaid, or owning, riding, leading or driving any horse or mule, or driving any hogs, sheep or cattle as aforesaid shall, with an intent to defraud the said company, or to evade the payment of any of the tolls or duties aforesaid, pass therewith through any private gate or bar, or along or over any private passage way, or along or over any other ground or land, near to or adjoining any turnpike or gate which shall be erected in pursuance of this act, or if any person or persons shall, with the intent aforesaid, take off, or cause to be taken off, any horse or other beast or cattle of draught or burden from any carriage of burden or pleasure, or shall practice any other fraudulent means or device, with intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending, in manner

aforesaid, shall, for every such offense, respectively, forfeit and pay to the president, managers and company of the Centre turnpike road, leading from Reading to Sunbury, the sum of fifteen dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations, as debts of equal amount are or may be by law recoverable.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good repair, for the space of twenty days, and information thereof shall be given to any justice of the peace of the proper county, such justice shall issue a precept, to be directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road of which complaint is made, of which meeting notice shall be given to the keepers of the gates or turnpikes between which such defective parts shall be, and the said justice shall, at such time, and place, by the oaths or affirmations of the said freeholders, enquire whether the said road, or any part thereof, is in such good repair as aforesaid, and shall cause an inquisition to be made, under the hands and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of repair, according to the true intent and meaning of this act, he shall so certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates, for the intermediate distance between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair as aforesaid; and if any of the keepers of the gates aforesaid shall take or attempt to exact tolls, for the intermediate distance between the gates aforesaid, from any traveller, during the time the road shall continue out of repair, such keeper shall forfeit and pay to the person who shall prosecute for the same, the sum of five dol-

lars, to be recovered before any justice of the peace as debts of equal amount are or may be by law recoverable; but if the same road shall not be put into good repair before the next ensuing court of quarter sessions of the proper county, the said justice shall certify and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be found defective as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest against the person or persons entrusted as aforesaid; and, upon conviction, shall give such judgment, according to the nature and aggravation of the neglect, as the said court in their discretion shall judge proper: Provided, the fine in no instance shall be less than twenty dollars, nor exceeding one hundred dollars; and the fines, so to be imposed, shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said county, and shall be paid to the supervisors of the highways of the place wherein the offense was committed, to be applied to repairing such highways as the township or county is bound to repair at the public expense thereof.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all monies which shall be received by them from the said commissioners, and from the subscribers for the stock of the said company on account of their several subscriptions, and of all penalties for the delay in the payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of their said work; and shall, once at least in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or whenever the whole

capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened, according to the provisions of this act, or their own by-laws, to increase the numbers of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner, and under the like penalties, as are herein before provided for the original subscriptions, or as shall be provided by their by-laws.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall also keep a just and true account of all and every the monies which may be received by their several and respective collectors of tolls, at the several gates or turnpikes on the said road, which shall not exceed one for every five miles after the road is completed from the beginning to the end thereof, or such part thereof as shall, from time to time, be completed as aforesaid; and after the said road shall be completed, or so much thereof as it may, from time to time, be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved, among all the subscribers to the stock of the said company; and shall, on the first Monday in December and June in every year, publish the half-yearly dividends to be made of the clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall, at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the general assembly of this commonwealth, an abstract of their accounts showing the whole amount of their capital expended in prosecution of the

said work, and of the income and profits arising from the said tolls, for and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after the said road shall be completed, it shall appear, from the average profits thereof for the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall be lawful to and for the said president, managers and company to increase the tolls herein above allowed, in equal proportions upon each and every allowance thereof, so as to raise the dividends up to six per centum per annum; and at the end of every ten years after the said road shall be completed, they shall render to the general assembly, a like abstract of their accounts for the three preceding years; and if, at the end of any such decennial period, it shall appear from such abstract, that the clear profits and income of the said company will bear a dividend of more than nine per centum per annum, then the said toll shall be so reduced as to bring the said dividend to nine per centum per annum.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected at the intersection of every public road falling into and leading out of the said turnpike road, with boards and index hand pointing to the direction of such road, on both sides whereof shall be inscribed in legible characters, the name of the town or place, to which such road leads, and the distance thereof in measured or computed miles, and shall also cause milestones to be placed on the side of the said road, to designate the distance to and from the principal places thereon, and shall cause to be affixed on the gates to be erected for the information of travellers using the said road, a printed list of the rates or tolls which from time to time may be lawfully demanded.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall wilfully break, deface, pull up or prostrate any milestone which shall be placed in pursuance of this act on the side of the said road, or shall obliterate the letters or figures inscribed thereon, or shall wilfully break, pull down, deface, destroy or injure any direction post which shall be erected in pursuance of this act, at the intersection of any road as aforesaid, or the board or index-hand affixed thereto in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface or obliterate the letters, figures or other characters marked at any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned, or the whole or any part of any printed list of the rates of tolls which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike, he or they so offending in the premises, and each of them shall, for every such offense, severally and respectively, forfeit and pay to the said president, managers and company the sum of twenty dollars; to be sued for and recovered, with costs of suit, before any justice of the peace in manner aforesaid.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That all wagoners, carters, and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the said road free and clear for other carriages to pass; and if any wagoner, carter or driver shall offend against this provision, he shall forfeit and pay any sum not exceeding six dollars, to any person who shall, by reason thereof, be obstructed in his passage, and will sue for the same before any justice of the peace; to be recovered, with costs, in manner aforesaid.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That if any toll-gatherer shall demand from any person or persons using the said road,

any greater rate of toll than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offense; one-half to the use of the supervisors of the roads or highways of the township in which the forfeiture shall be incurred, and the other half to the use of the person suing for the same; to be recovered before any justice of the peace of the county where such offense shall have been committed.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if in any suit or prosecution which shall be commenced under the directions of this act, for any penalty incurred, whether by or against the said company or their agents, and the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then, and in such case, the person or persons prosecuted as aforesaid, shall recover, by the judgment of the justice before whom such suit or prosecution shall be depending, or by action before the court of common pleas of the proper county, (if such prosecution shall have been instituted before the court of general quarter sessions of the peace) such sum, not exceeding the amount of the penalty for which the suit or prosecution shall have been commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That no suit or action shall be prosecuted by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within six months next after the fact committed; and the defendant or defendants, in such suit or action, may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall not proceed to carry on the said work within four years after the passing of this act, or shall not, within ten years thereafter complete the said road, according to the true intent and meaning of this act, then, in either of those cases, it shall

and may be lawful for the legislature of the commonwealth, to resume all and singular the rights, liberties, privileges and franchises by this act granted to the said company.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should, at any time after the year one thousand eight hundred and thirty, think proper to take possession of the said road, three persons shall be appointed by the governor, and three by the president, and managers of the said company, and three by the judges of the supreme court, who, or any six or more of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor, who shall cause the same to be laid before the legislature at their next session; and whenever the amount so certified shall be by law paid to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.

Section XXVI. (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That if one thousand shares in the stock of the said company be not actually subscribed for as aforesaid, within four years from the passing of this act, then the powers and privileges hereby granted to the said company shall cease and determine, and the subscribers of shares shall have right and power to call on the president and managers, for their proportional shares of the sums by them respectively paid, after deducting their respective proportions of the reasonable expenses that shall have been actually paid or incurred.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 118.

See a supplement to the act in the text; Chapter 2680 (Act March 17, 1806, P. L. 490); 18 Statutes at Large.

CHAPTER MMDLXXIX.

AN ACT FOR THE RELIEF OF JOHN CHANDLER.

Whereas John Chandler, a native of Great Britain, hath represented to the legislature, that in the month of March, one thousand eight hundred and three, he arrived in this state with an intention of residing therein: that in the month of July following, he (being unacquainted with the laws relative to aliens purchasing and holding real estates) purchased of Joseph Wilkinson and Abraham Trimble a plantation, containing one hundred and nine acres of land, situate in the township of Nether Providence, in the county of Delaware, bounded by lands of Edward Tilghman, Mahlon Persons, and others; the consideration therefor being paid at the time he received his deeds, and hath been in possession of the premises from the time of his purchase: And whereas it hath been represented to the legislature, that the petitioner hath since declared, in the county court of common pleas of Delaware county, his intention to become a citizen of the United States, according to the laws in that case made and provided: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the title to all and singular the above described real estate, with the appurtenances, acquired by the said John Chandler, by deeds of indenture made to him by the above named Joseph Wilkinson and Abraham Trimble, shall be and remain as firm, valid and effectual in law, to all intents and purposes whatsoever, as if the said John Chandler had previously thereto taken and subscribed a declaration of his intention to become a citizen of the United States; any law of this commonwealth to the contrary thereof in any wise notwithstanding.

CHAPTER MMDLXXX.

AN ACT VESTING IN THE SELECT AND COMMON COUNCILS OF THE CITY OF PHILADELPHIA, THE CORPORATION OF THE DISTRICT OF SOUTHWARK, AND THE COMMISSIONERS OF THE INCORPORATED PART OF THE NORTHERN LIBERTIES RESPECTIVELY, ALL AND EVERY THE POWER OF REGULATING THE MARKETS IN SAID CITY AND DISTRICTS AFORESAID HOLDEN ON THE FIRST DAY OF THE WEEK, COMMONLY CALLED SUNDAY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be lawful for the select and common councils of the city of Philadelphia, the corporation of the district of Southwark, and the commissioners of the incorporated part of the Northern Liberties respectively, to make, ordain and pass such ordinance or ordinances as they may judge proper, for the better regulation of the markets holden in the said city and districts aforesaid on the first day of the week, commonly called Sunday.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That so much of the act passed the twenty-second day of April, one thousand seven hundred and ninety-four,⁽¹⁾ entitled, "An act for the prevention of vice and immorality, and for other purposes," as relates to the sale of the necessities of life on the first day of the week, commonly called Sunday, so far as it respects the city and districts aforesaid, be and the same is hereby repealed.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 131.

Note (*). Chapter 1758; 15 Statutes at Large, p. 110.

CHAPTER MMDLXXXI.

AN ACT FOR THE BETTER REGULATION OF THE CITY OF PHILADELPHIA AND DISTRICTS ADJOINING, AND PRESERVING THE NAVIGATION OF THE RIVER SCHUYLKILL.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania—XVII.

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the court of quarter sessions of the county of Philadelphia, on being petitioned to grant a view of or for opening any street, lane, or alley, within the city of Philadelphia, shall have power, and by virtue of this act are directed and required, as often as they judge it useful, in open court, to order and appoint twelve discreet and disinterested freeholders, neither of whom shall reside or own real estate in the city aforesaid, who, being first sworn or affirmed, shall, together with the commissioners of the county for the time being, or a majority of them, view the ground proposed for opening such street, lane or alley, and if they, or any ten of them view the said ground, and any seven of the actual viewers, exclusive of the county commissioners, agree that there is occasion for such street, lane or alley to be opened, they shall proceed to lay out the same, as agreeably to the desire of the petitioners as may be, in such manner as to do the least injury to private property, and shall make report thereof, stating particularly, whether they judge the same necessary, together with a plot or draft thereof, to the next court of quarter sessions; and if then and there the court aforesaid shall approve of the same, it shall, at the next court thereafter, be entered on record, and thenceforth shall be taken, deemed and allowed to be a public street, lane or alley, compensation being first made to the owner of the ground or other property, as hereinafter directed: Provided, that no street, lane or alley, so opened, shall, in any case exceed, fifty feet in breadth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That on the return of the viewers reporting in favor of opening any street, lane or alley, as aforesaid, and the same being approved of by the court, at their next session thereafter to which the report is returned, the court shall appoint twelve discreet and disinterested freeholders, neither of whom shall reside or own real estate within the city aforesaid, who, being first sworn or affirmed, shall enquire what damages the owner or owners of lands,

house, houses, or other property shall or may sustain by reason of the same being taken, used and appropriated for the purpose aforesaid: Provided always, that it shall be the duty of the said freeholders in assessing damages, to consider the advantages which may accrue to the owner or owners of such lands, house, houses or other property, by reason of opening such street, lane or alley.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That upon the return of valuation and assessment of damages, as aforesaid, for ground or other property taken and appropriated for public streets, lanes or alleys, within the city aforesaid, and the court of quarter sessions of the county of Philadelphia having approved the same, the amount of damages awarded, as aforesaid, shall be paid by the treasurer of the said county, and so soon as the said damages are paid, the mayor of the said city shall cause such street or other passage to be opened, agreeably to the direction of the court: Provided always, that unless the same shall be paid within one year next after the return made by the viewers, all such proceedings as aforesaid shall be void and of no effect whatever.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That all streets, alleys, courts and lanes which have been heretofore laid out, opened and appropriated to public use by private persons within the city of Philadelphia, and all those streets, courts and other passages which shall be laid out and opened by order of the inspectors of the jail, on any of the city lots granted by the commonwealth, by an act, entitled, "An act to direct the sale of certain unimproved lots, the property of this commonwealth, in the city of Philadelphia, and to appropriate the proceeds thereof towards the erection of a building for the purpose of more completely carrying into effect the penal laws of this state,"⁽¹⁾ and also all those streets, alleys, courts and lanes which shall hereafter be laid out, opened and appropriated to public use by private persons, provided, the same be not less than twenty feet wide, shall, to all intents and purposes, be held, deemed,

taken and be highways, as fully and completely, according to their extent, as any highways laid out by order of the court of quarter sessions of any county within this commonwealth.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the select and common councils of the said city shall be authorized to make all ordinances which they shall judge useful or necessary for the forming, laying with broken stone, or gravelling any of the streets, alleys, courts or lanes within the said city, which shall at any time by them be judged improper to order to be paved, and whenever the cart way of any such street, court or other passage shall be regulated, shaped and formed, or when so formed and laid with gravel or other hard substances, in either of those cases the owners of the several lots which are bounded upon or adjoining any such street, court, or other passage shall be obliged to form or shape, or lay with hard substances or gravel, the respective footways opposite to their several lots, in such manner, at such time and under such penalties as shall be directed by the said ordinances.

Section VI. (Section VI, P. L.) And whereas the charter granted to the citizens of Philadelphia, by William Penn, (proprietor of Pennsylvania) on the twenty-fifth day of October, one thousand seven hundred and one, doth not grant to the citizens the same right to occupy and use the ends of the streets which extend to the river Schuylkill which was granted on the river Delaware, and as such a public benefit will now be highly useful to the inhabitants of the said city and to other citizens of this commonwealth, Therefore, be it enacted by the authority aforesaid, that the corporation of the said city shall be invested with all and singular the powers and authorities, jurisdictions, rights and immunities in, to and over the ends of each and every public street or alley which extends to or into the river Schuylkill, as fully to all intents and purposes, and to the like uses, as by the said charter, or any law of this commonwealth, is or are granted to the former or present corporation of the said city, respecting the east ends of the several streets which extend to or

into the river Delaware, that part of the west end of High-street, belonging to the bridge company only excepted.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the wardens of the port of Philadelphia, shall be authorized and empowered to fix and determine the extent or distance which any person or persons, or body or bodies, politic or corporate, who are the owner or owners of lots of ground extending to the said river Schuylkill, on either of its shores, from the lower falls thereof to its junction with the river Delaware, may build wharves therein.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if any owner or owners of any lot or lots of ground extending into the river Schuylkill, from the lower falls thereof to its junction with the river Delaware, shall build any wharf, house, store or other building further into the said river than to common low water mark, without license first had and obtained from the said wardens, or further into the said river than may be permitted by such license, he, she or they being legally convicted of the same shall pay a fine of one thousand dollars, to be recovered with costs as debts of the same amount are or may be by law recoverable, one-half of which fine shall be paid to the guardians or overseers of the poor of the city, district or township where such wharf or building shall be erected, and the other half to the person or persons who shall sue for and recover the same.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall erect or make any fence beyond the common low water mark into the said river, without license first had and obtained from the said wardens, he, she or they being legally convicted of the same, shall, for every such offense, forfeit and pay a fine not exceeding twenty dollars; to be recovered with costs as debts of the same amount are or may be by law recoverable; one-half of which fine shall be paid to the overseers or guardians

of the poor of the city, district or township as aforesaid, and the other half to the person or persons who shall sue for and recover the same.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 132.

Note (*). Chapter 2388. Supra, this volume, p. 469.

CHAPTER MMDLXXXII.

AN ACT EXPLANATORY OF THE ACT, ENTITLED, "AN ACT TO REGULATE THE PAYMENT OF COSTS ON INDICTMENTS." (*).

Whereas the act entitled, "An act to regulate the payment of costs or indictments,"^(*) has been construed by some courts of justice, to be of force, and by others not of force: Therefore, in order to prevent any mischief which might arise from such difference of construction,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the act, entitled, "An act to regulate the payment of costs on indictments" shall be considered in full force and operation, and the proceedings and adjudications had by any court of justice, agreeably to the provisions of the said act, are declared to be lawful and valid.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That in all cases where two or more persons have committed an indictable offense, the names of all concerned (if a prosecution shall be commenced) shall be contained in one bill of indictment, for which not more costs shall be allowed than if the name of one person only was contained therein.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the prosecutor, witness or witnesses marked on any bill of indictment which may be

tried, shall be competent to give testimony as to the facts charged therein.

Recorded in L. B. No. 10, p. 135.

Note (1). Chapter 2525. *Supra*, this volume, p. 882.

(Note. The original act, December 7, 1804, (Chapter 2525), and the second section of this act made perpetual by an act passed 29th March, 1809; Chapter 3081; 18 Statutes at Large, which also supplies the third section of this act.

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PENNSYLVANIA.

Gentlemen,

THE bill, entitled, An act explanatory of the act, entitled, "An act to regulate the payment of costs on indictments, which was presented to me on Saturday the sixteenth instant, has not been returned within ten days, (Sundays excepted) so that it is now become a law: I have directed it to be returned to the House of Representatives, in which it originated.

THOMAS M'KEAN.

Lancaster, March 28th, 1805.

WE certify that the foregoing is a true copy of a message of the Governor, transmitted on the day of its date, (together with the act referred to therein) to the Senate and House of Representatives.

GEORGE BRYAN, Clerk
of the Senate.

MATTHEW HUSTON, Clerk
of the House of Representatives.

CHAPTER MMDLXXXIII.

AN ACT FOR THE RELIEF OF BENJAMIN CLARK.

Whereas it has been represented to the legislature, that Benjamin Clark, now an inhabitant of Greene county, entered the service of his country for three years, in the revolutionary war, under the command of captain Kilgore, in the eighth Pennsylvania regiment; that he has faithfully fulfilled the

terms of his enlistment; that in the year one thousand seven hundred and seventy-seven, whilst in actual service, he received a wound in his forehead, at or near a place called Boundbrook, in the State of New Jersey; that he afterwards, to wit, in the year one thousand seven hundred and seventy-eight, was wounded with two balls in one of his thighs, and with another in one of his hands, in a march to Fort M'Intosh, under the command of colonel John Clark, against the Indians; that shortly after he had received said wounds, he became much affected in his hearing and eyesight, so that he is at present nearly deaf and blind, believed to be the effects of the wounds he thus received in the service of his country, in consequence of which he is entirely unable to maintain himself and his numerous and helpless family: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the said Benjamin Clark be, and he is hereby allowed three dollars and thirty-three cents per month, for and during his natural life, payable in half-yearly payments, to commence from the first day of January, in the present year, on warrants drawn by the governor out of any unappropriated monies in the treasury of this commonwealth.

Approved March 29, 1805. Recorded in L. B. No. 10, p. 135.

CHAPTER MMDLXXXIV.

AN ACT TO ESTABLISH AND CONFIRM THE PLACE FOR HOLDING THE COURTS OF JUSTICE, AND TO PROVIDE FOR ERECTING THE PUBLIC BUILDINGS FOR THE USE OF CAMBRIA COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That John Horner, John J. Evans, and Alexander Ogle, be, and hereby are appointed

trustees for the county of Cambria, and the said trustees, or a majority of them, are hereby authorized and required to take and receive by grant, bargain or otherwise, as well all such assurances for the payment of money and grants of land and lots in the town of Ebensburg, as has been stipulated for by Rees Lloyd, John Lloyd and Stephen Lloyd, by their proposals to the commissioners appointed in the county of Cambria for that purpose, and to the general assembly, as also any monies, bonds or other property that may hereafter be offered to them in trust, to sell and convey, or otherwise dispose of the lots and land aforesaid, to the best advantage for said county of Cambria, and with the monies arising from the sale of such land and lots aforesaid, and other monies duly assessed, levied and collected within the county of Cambria, to erect or cause to be erected a court house, prison and buildings, for the safe keeping of the public records of said county, in such part of the said town of Ebensburg as to them shall appear most suitable for that purpose.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That before the said commissioners proceed to the discharge of the duties herein enjoined and required; they shall demand and receive from the aforesaid Rees Lloyd, John Lloyd and Stephen Lloyd, sufficient deeds in fee simple of the above described land and in-lots in the town of Ebensburg, in trust for the use of Cambria county, agreeably to the proposals heretofore made to the commissioners appointed for that purpose, and to the general assembly, for the use of Cambria county, by the said Rees Lloyd, John Lloyd and Stephen Lloyd, and shall procure the same to be recorded in the office for recording of deeds in Somerset county, and when the said trustees have so done, they shall have authority, and it shall be their duty to make out and grant sufficient deeds for the town-lots and other land aforesaid by them sold in pursuance of this act.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said trustees, or a majority of them, after the county of Cambria shall be organized, and the courts and board of commissioners in operation, shall

surrender and convey all the trusts vested in them by this act to the commissioners of Cambria county, and to their successors in office, and the said county commissioners and their successors shall enjoy and exercise all the powers vested in, and discharge all the duties required of and enjoined on the said trustees, as fully to all intents and purposes, as if they were expressly named, and the said county commissioners shall have power, and it shall be their duty to call upon, and, if necessary, to compel the trustees, or either of them, by suit, to settle their accounts with respect to the performance of their trust, and pay over the money due to the county, if any such money remains in their hands, to the treasurer of Cambria county, subject to the disposal of the said county commissioners.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the aforesaid trustees shall make such alteration in the plan of Ebensburg, as shall appear necessary for the advantage of the inhabitants of said town, and the said trustees shall receive one dollar and fifty cents each, for every day they shall be necessarily employed in the performance of their duties enjoined by this act.

Approved March 29, 1805. Recorded in L. B. No. 10, p. 136.

CHAPTER MMDLXXXV.

AN ACT AUTHORIZING THE COURT OF QUARTER SESSIONS OF CHESTER COUNTY TO DIRECT A REVIEW OF THAT PART OF THE STATE ROAD LEADING FROM PHILADELPHIA TO THE BOROUGH OF YORK, WHICH LIES BETWEEN WEST CHESTER AND THE LINE DIVIDING CHESTER AND LANCASTER COUNTIES.

Whereas by an act of assembly passed the eleventh day of April, one thousand seven hundred and ninety-three,⁽¹⁾ and divers subsequent acts, a road was laid out from the city of Philadelphia to the borough of York, through West Chester, Strasburgh, and by the Blue Rock, a return whereof was made into the office of the secretary of the commonwealth, and afterwards the said road was opened agreeably to the marks

made on the ground, and the points mentioned in the said return: And whereas in pursuance of orders made by the court of quarter sessions in the county of Chester, a resurvey was made of that part which lies between West Chester and Strasburgh, from which it appears, that the courses and distances laid down in the return do not strike the points fixed on by the commissioners originally appointed to lay out the same, in consequence whereof difficulties have arisen: For remedy whereof,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the court of quarter sessions in the county of Chester is hereby authorized to direct a review and resurvey of that part of the State road, leading from Philadelphia to the borough of York, which lies between West Chester and the line dividing Chester and Lancaster counties, and to correct any mistakes, and make such alterations in the said road, as they shall deem necessary and proper.

Approved March 29, 1805. Recorded in L. B. No. 10, p. 133.
Note (1). Chapter 1694; 14 Statutes at Large, p. 440.

CHAPTER MMDLXXXVI.

A SUPPLEMENT TO THE ACT, ENTITLED, "AN ACT TO INCORPORATE THE PRESBYTERIAN CONGREGATION IN DONEGAL TOWNSHIP, IN THE COUNTY OF LANCASTER." (1).

Whereas it has been represented to the legislature, by the trustees of the Presbyterian congregation in Donegal township, in the county of Lancaster, that they have experienced great inconveniences under their present act of incorporation, which requires five of the number of trustees, annually appointed for said congregation, to make a quorum to transact the business relating to said congregation, by reason of which much necessary business is frequently delayed, and have prayed the legislature that the said act may be altered and

amended, that the number of trustees directed to be annually appointed may be reduced to three, and that they, or a majority of them, may be enabled to transact the business relating to said congregation: and whereas it appears reasonable to the legislature that the said request should be complied with: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the number of trustees directed to be elected under the act to which this is a supplement, be and the same is hereby reduced to three, and the congregation aforesaid shall annually hereafter at the time set forth in said act, elect three trustees in lieu of the number directed to be elected under the said act, and the trustees so elected shall exercise all the rights, powers and authorities heretofore exercised by the trustees appointed under the act to which this is a supplement; any thing contained in said act to the contrary notwithstanding.

Approved March 29, 1805. Recorded in L. B. No. 10, p. 139.
Note (*). Chapter 1238; 12 Statutes at Large, p. 266.

CHAPTER MMDLXXXVII.

AN ACT TO APPROPRIATE A SUM OF MONEY FOR IMPROVING THE ROAD FROM PITTSBURGH TO THE BOROUGH OF BEAVER.

Whereas the citizens of Allegheny county have, by their petition to the legislature, set forth the great advantages that would result if that part of the road called the Narrows, leading from Pittsburgh to the borough of Beaver, was made passable for wagons, as it would facilitate the intercourse with the state of Ohio: And whereas the improving said road is of too difficult and extensive a nature to be accomplished by the townships through which it passes: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the sum of five hundred dollars is hereby appropriated for the purpose of improving that part of the road called the Narrows, leading from Pittsburgh to the borough of Beaver, and the governor is hereby authorised and empowered to draw his warrant on the treasurer of this commonwealth for the aforesaid sum, in favor of the commissioners of Allegheny county, who may contract with any person or persons for improving said road, and on the completion thereof they shall submit a particular account of the expenditure of said money to the auditors of said county for their approbation.

Approved March 29, 1908. Recorded in L. B. No. 10, p. 140.

CHAPTER MMDLXXXVIII.

AN ACT TO ERECT THE TOWN OF ERIE, IN THE COUNTY OF ERIE, INTO A BOROUGH, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the first section of the town of Erie, in the county of Erie, shall be and the same is hereby erected into a borough, which shall be called the Borough of Erie, and the east side of Parade street, the south side of Twelfth street, the west side of Chestnut street and Lake Erie, shall be the boundaries thereof.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for all persons entitled to vote for members of the legislature, who have resided in said borough six months previously to any election, to meet at the house now occupied by George Buchlar, on the first Monday in May in each year, until a court house shall be erected, after which the elections shall be held therein, and then and there to elect by ballot, between the hours of twelve and six o'clock in the evening, one reputable citizen

residing therein, who shall be styled the burgess of the said borough, and five reputable citizens to be a town council, and also to elect as aforesaid a high constable; but previously to any such election, the inhabitants shall elect three reputable citizens, one of whom shall preside as judge, one act as inspector, and the other discharge the duty of clerk, according to the general election law of this commonwealth, so far as relates to receiving and counting the votes, and shall be subject to the same penalties for malpractices as by the said election laws are imposed, and the said judge, inspector and clerk, before they enter on the duties of their respective offices, shall take an oath or affirmation, before any justice of the peace in the county of Erie, to perform the same with fidelity, and shall hold said elections, from time to time, as occasion may require, and receive and count the ballots, and declare the persons having the greatest number of votes to be duly elected, whereupon duplicate certificates thereof shall be signed by the said judge, inspector and clerk, one of which shall be transmitted to each of the persons elected, and the other filed among the records of the corporation for their safe-keeping; and in case of vacancy by death, resignation, refusal to accept, or removal from the said borough of any of said officers, the burgess, or, in his absence or inability to act, the first named of the town council shall issue his precept, directed to the high-constable, requiring him to hold an election to fill such vacancy, he giving at least ten days notice, by advertisements set up at four of the most public places in said borough.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the burgess and town council duly elected as aforesaid and their successors forever, shall be one body politic and corporate in law, by the name of "The Burgess and Town council of the Borough of Erie, in the county of Erie," and shall have perpetual succession, and the said burgess and town council aforesaid, and their successors forever, shall be capable in law to have, get, receive, hold and possess lands, tenements, rents, liberties, jurisdictions, franchises and hereditaments to them and their successors in fee simple or otherwise, also goods, chattels and other things of

what nature and kind soever, not exceeding the yearly value of three thousand dollars; and also to give, grant, let, sell and assign the same lands, tenements, hereditaments, rents, goods and chattels, and by the name aforesaid they shall be capable in law to sue and be sued, plead and be impleaded, in any of the courts of this commonwealth, in all manner of actions whatsoever, and to have and to use one common seal, and the same, from time to time, at their will to change and alter.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person duly elected, whether a burgess or member of town council, as aforesaid, having been notified as before directed, shall refuse or neglect to take upon himself the execution of the office to which he shall have been elected, every person so refusing or neglecting shall forfeit and pay the sum of twenty dollars; which fine, and all other fines and forfeitures incurred and made payable in pursuance of this act, or of the by-laws and ordinances of the town council, shall be for the use of the said corporation; to be recovered as debts of equal amount are or may be by law recoverable.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the burgess, town council and high constable, and each of them, shall take an oath or affirmation, before any justice of the peace of said county, to support the constitution of the United States and of this state, and well and truly execute the duties of their respective offices in the borough of Erie, and the certificate of such oath or affirmation shall be recorded in the books of the said corporation.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the town council to meet as often as occasion may require, and enact such by-laws and make such rules, ordinances and regulations; assess, apportion, and appropriate such taxes as shall be determined by a majority of the town council, necessary to promote the peace, good order, benefit or advantage of said borough; and also to erect and build, or cause to be erected and built, such and so many wharves and landings,

and extend the same to such distance into the Bay of Presqu'isle opposite to the said borough, from time to time, and to charge and receive reasonable tolls and wharfage from persons using the same; and generally to make such rules, orders and regulations respecting the same, as they shall think necessary; and also to appoint a town-clerk, and such other officers as may be deemed necessary, by a majority of the town council; but no by-law, rule or ordinance enacted as aforesaid, shall be repugnant to the constitution or laws of the United States or of this state, and no person shall be punished for the breach of any by-law or ordinance enacted for the regulation of the said borough of Erie, unless a true copy thereof be set up at three of the most public places in said borough, and no by-law or ordinance shall be carried into operation in less than three weeks after such publication: Provided nevertheless, that no tax shall be laid in any one year on the valuation of taxable property exceeding one half cent in the dollar, unless some object of general utility should be thought necessary; in such case, a majority of the taxable inhabitants of said borough, by writing under their hands, shall certify the same to the town council, who shall proceed to assess the same as aforesaid.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the burgess, elected agreeably to this act, is hereby authorized and empowered to issue his precept, directed to the high constable, commanding him to collect all taxes assessed from time to time, as aforesaid, and all fines and forfeitures that may become due by virtue of this act, or by the ordinances or regulations of the corporation, and the same to pay over to the treasurer to be appointed by the town council; and to carry into effect whatsoever is enjoined on him for the well ordering and governing the said borough.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the burgess shall be, and is hereby required to cause the by-laws, rules, ordinances and regulations, made as aforesaid, to be recorded in a book to be kept for that purpose, and he shall carry the same into full

execution, without delay, after the publication thereof, as directed by this act; and it shall be the duty of the town clerk to attend all meetings of the town council when assembled on business of the corporation, and perform the duty of clerk thereto, and keep and preserve the common seal, records, papers, books and other documents relating to the said corporation, and in default he shall be answerable to any person concerned for all damages, and may be removed from office by the burgess, on complaint of a majority of the council; and the high constable shall perform all duties on him enjoined by this act, and also by the by-laws and ordinances of the town-council, under the like penalties: Provided always, that if any person or persons shall think him, her or themselves aggrieved by any thing done in pursuance of this act, he, she or they may appeal to the next court of quarter sessions to be held for the proper county, on giving security according to law to prosecute his, her or their appeal with effect, which court shall take such order therein as shall be just and reasonable, which order or judgment shall be conclusive against all parties.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the lots numbered in the general plan of the said town with the numbers two thousand and sixty-six and two thousand and sixty-seven, are hereby granted to George Buchlar and Judeth Colt, their heirs and assigns, in trust nevertheless and to and for the use of the said borough, for the purpose of erecting a church or churches thereon, and to the inhabitants of the said borough forever for a place of burial: Provided, nevertheless, that the right of private property shall not be affected or impaired by any of the grants aforesaid, without the consent of the owner or owners first had for that purpose.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the following shall hereafter be the northern boundary of Front street of the said town; to wit, Commencing at the west side of Parade street, two hundred and ninety feet from the north-east corner of lot number three thousand two hundred and seventy-eight; thence south

fifty-nine degrees west three thousand three hundred and ten feet to a post at the mouth of Lee's run; thence north eighty-six degrees west seven hundred and forty feet to a post; thence south sixty-six degrees west four hundred and eighty five feet to a post on the west side of Myrtle street; thence south forty-three degrees west seven hundred feet to the east side of Chestnut street; and that the burgess, and town council, or a majority of them for the time being, shall have power to lay out a row of lots adjoining the said line, on the north side thereof, opposite to the several squares of said town, of the length of sixty feet and not less than thirty, nor more than fifty feet in breadth, and to lay out a street along the north side of the said row of lots of the breadth of forty feet, to be called Water street, and to extend as far into the Bay of Presqu'isle as they may judge expedient, all the streets which have heretofore terminated at the shore of the Bay aforesaid: Provided, that Water street aforesaid shall be raised not less than six feet above the surface of the water of the Bay, and the north side of Front street aforesaid shall be raised at least fourteen feet above the surface of the water aforesaid, and the burgess and town council, for the time being, or a majority of them, shall have power at such time and times, in such manner, and on such terms as to them shall appear most advantageous, to sell, at public auction, and by indenture duly executed under their hands and seals, or under the hands and seals of a majority of them, to grant and convey in fee simple, to the highest and best bidders respectively, all or any of the lots to be laid out as aforesaid, with authority to the said purchasers respectively to erect such wharves opposite to such lots as the said burgess and town council shall think expedient, and to extend the same, from time to time, to such distance into the Bay as the borough laws shall permit, and the monies arising from the sale of the said lots shall be laid out and appropriated in the same manner, and subject to the same regulations and restrictions as the monies to be raised by virtue of the sixth section of this act: Provided always, that no building shall be erected on any of the lots so to be laid out

and sold as aforesaid, higher, including the roof, than forty feet above the surface of the water aforesaid, nor shall any building whatever be erected on the north side of Water street aforesaid.

Approved March 29, 1805. Recorded in L. B. No. 10, p. 141.

CHAPTER MMDLXXXIX.

AN ACT DIRECTING THE MODE OF SELECTING AND RETURNING JURORS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That, in each county of this commonwealth, the sheriff and county commissioners, or any two of the said commissioners with the sheriff, shall meet at the seat of justice at least thirty days previously to the first court of common pleas to be holden in each and every year, and shall then and there select, from the list of taxable citizens, the names of a sufficient number of sober and judicious persons, to serve as jurors at the several courts hereinafter mentioned, to be holden in that year, and shall write the name of each person so selected on a small piece of paper, which papers shall be as nearly alike, in size and shape, as may be, and shall be so folded that the name doth not appear; two wheels shall be provided, which shall be numbered 1, 2; in No. 1 the names of those intended for grand jurors shall be put; in No. 2 those intended for petit jurors shall be put; upon which they shall turn the wheel sufficiently to intermix the papers deposited therein, and having first drawn from the proper wheel or wheels a number of names sufficient for the then next court, the wheels respectively shall then be locked up and sealed; the county commissioners shall take charge of the wheels, and the sheriff of the keys; and thirty days previously to each succeeding court, the same proceedings shall be had by the sheriff and county commissioners aforesaid; a list of the names

so drawn shall then be fixed up by the sheriff in his office, and a copy shall be delivered by him to the prothonotary, who shall fix up the same in his office, for the inspection of all concerned, whereupon the usual venire shall be made out by the prothonotary, containing the names of the persons mentioned in said list, so delivered and drawn, and within two days thereafter be delivered by him to the sheriff, who shall thereupon summon the persons named, at least ten days before the first day of the court: Provided always, that the sheriff and county commissioners aforesaid shall always select and deposit a number of names sufficient in each and every wheel, so that at the last drawing, in every year, the number requisite for one jury, at least, shall remain in each wheel, and on every drawing, the wheels shall again be locked and sealed up in manner before directed.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That, for the city and county of Philadelphia, there shall be provided an additional wheel, to be numbered No. 3, for which a sufficient number of names shall be selected and deposited therein for special jurors, which names shall be selected, deposited, drawn, and the persons summoned and returned in like manner, and under the same provisions and regulations as is directed by the preceding section of this act, and for the trial of causes in the Mayor's Court of the city of Philadelphia, one wheel shall be provided for grand jurors, and another for petit jurors, and the like proceedings shall be had, by the aforesaid officers, in the selecting, depositing, drawing, summoning and returning jurors, as is provided in all cases for the county courts: Provided, that the selection for the aforesaid court be made from citizens residing within the bounds of the said city.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That every person whose name shall be so drawn, and who shall have been summoned as aforesaid, but shall not appear before the respective board to which he may have been summoned, after being openly called three times, due proof

being made by the oath or affirmation of the sheriff, or other credible person, that each person so making default had been lawfully summoned, shall forfeit and pay for every such default, in not appearing upon call as aforesaid, (unless some reasonable cause of such person's absence be made appear to the satisfaction of the same court, or to the next succeeding court) such fine, not exceeding twenty dollars, as the court shall think proper to inflict, which fine the sheriff of the proper county shall, within twenty days after the court aforesaid, levy by virtue of a writ to be issued by the court, and shall pay the same to the county treasurer of the proper county, to be appropriated towards defraying the expense of paying jurors; and every person whose name shall be drawn as aforesaid, and not appearing, shall be returned by the sheriff at the next succeeding drawing of jurors, and his name shall then again be put in the wheel from which such name was drawn for the court preceding, provided such person is residing within the county, and so, as often as such person shall refuse or neglect to attend, the like proceedings shall be had; but the name of any person duly summoned and attending, or serving at any court for which his services are required, shall not be put into the wheel a second time in the same year; and any sheriff, coroner, or county commissioner having transgressed therein, shall, on conviction before the court to which such person shall have been summoned contrary to this act, for every such offense, pay a fine not exceeding thirty nor less than ten dollars, payable to the treasurer of the proper county towards defraying the expense of compensating jurors; which fine or fines shall be recovered as sums of equal amount are or may be by law recoverable.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That every sheriff now commissioned, or who may hereafter be commissioned, and every county commissioner now in office, or who may hereafter be elected to office, shall, before he enters on the execution of his office, besides the usual oath or affirmation of office, as required by the constitution and laws of this state, take the fol-

lowing oath or affirmation: I A. B. do swear (or affirm) that I will use my utmost endeavors and diligence in making an impartial selection of persons for jurors, and that I will not suffer partiality, favor or affection, hatred, malice or ill-will in any case or point whatever relating to the selection, drawing and returning of jurors to influence me, but that I will, in all respects, confirm to the true intent and meaning of the acts of the general assembly in such case made and provided; and in case of inability (occasioned by death, resignation or otherwise) of any sheriff in discharging the duties enjoined upon him by this act, the coroner of the proper county shall perform such duties; but before he enters upon the discharge thereof, he shall take the oath or affirmation before prescribed.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That every sheriff or coroner (as the case may be) to whom the return of the writ or process for summoning jurors for the trial of causes, before the judges of oyer and terminer, general jail delivery and nisi prius doth belong, shall, upon return thereof by rule of court, annex a panel to the said writ, containing the christian and surnames, additions and places of abode of a competent number of jurors, the names of the same persons to be inserted in the panel annexed to every such writ, for the trial of all issues in civil and criminal causes at the said courts in each respective county, which number of jurors in any county shall not be less than forty-eight nor more than sixty, without the direction of the judge or judges appointed to go the circuit and sit as judge or judges of oyer and terminer, general jail delivery or nisi prius in such county, who are hereby empowered and required, if he or they see cause, by order under his hand or their hands, to direct a greater number not to exceed eighty, and then the number so directed shall be the number who shall be summoned and returned to serve on such juries respectively.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the sheriff or coroner (as the case may be) of the county of Philadelphia, or other county, where the supreme court of judicature shall be holden, to

whom the return of the writ or process for summoning jurors, for the trial of causes at bar before the justices of the said supreme court doth belong, shall upon return thereof, by rule of court annex a panel to the said writ, containing the christian and surnames, additions and places of abode of a competent number of jurors, the names of the same persons to be inserted in the panel annexed to every such writ, for the trial of all issues to be tried at the bar of said court during the ensuing term, which number of jurors shall not be less than thirty-six, nor more than forty-eight, which shall be the number who shall be summoned and returned to serve on such juries.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That every sheriff or coroner (as the case may be) to whom the return of the writ or process for summoning jurors, for the trial of causes before the justices of the county court of common pleas, and before the justices of the general court of quarter sessions of the peace and jail delivery, in any county, or in the city of Philadelphia, doth belong, shall, upon return thereof, annex a panel to the said writ, containing the christian and surnames, additions and places of abode of a competent number of jurors, the names of the same persons to be inserted in the panel annexed to every writ, for the trial of all issues in causes in that court at the next term, which number of jurors shall not be less than twenty-four, nor more than forty-eight, which shall be the number who shall be summoned and returned to serve on such juries.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the sheriff or coroner, as the case may be, to whom the return of the writ or process for summoning jurors, for the trial of causes before the justices of the court of common pleas for the city and county of Philadelphia doth belong, shall, upon return thereof, annex a panel to the said writ, containing the christian and surnames, additions and places of abode of a competent number of jurors, the names of the same persons to be inserted in the panel annexed to every such writ, for the trial of all issues in causes in that court at the next term, which number of jurors shall

not be less than twenty-four nor more than thirty-six, which shall be the number who shall be summoned and returned to serve on such juries.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the name of each and every person so summoned and impanelled shall be written on several and distinct pieces of paper, which shall be as nearly of equal size and similar shape as may be, by the prothonotary or clerk of court, or his agent, who shall, by direction and under the notice of the judge or justice therein presiding, roll the said papers, severally, as nearly similar as may be, and put them in a box to be provided for that purpose by the said prothonotary or clerk, and when any cause shall be ready for trial some disinterested person, by direction of the court, shall, in open court, after having well mixed the papers deposited in said box, draw therefrom twelve of the said papers, one after another, and if any of the persons whose names shall be so drawn shall not appear, or be challenged and set aside, then such further number of said papers shall be drawn until twelve persons of those who appear, and who be not set aside, be had to serve on the jury, and the said twelve persons so first drawn who appear, and shall be approved, their names being marked in the panel, and they being sworn or affirmed, as the law directs, shall be the jury to try the cause so brought on to be tried as aforesaid, and the papers which bear the names of the persons who shall be so drawn and sworn or affirmed, (as the case may be) shall be kept apart by themselves in some other box, to be provided as aforesaid and kept for that purpose, until such jury shall give in their verdict, and the same be recorded, or until the said jury shall, by leave of the court, or consent of the parties in the cause, be discharged, and the same names shall again be rolled up and returned to the box first before mentioned, there to be kept with the other names remaining at that time undrawn and so often and so long as any cause shall remain to be tried during the term, sessions, or holding of the court: Provided always, that if any cause shall be brought on to be tried in any of the courts aforesaid,

respectively, before that the jury which may be charged in any other cause shall have given in their verdict, or shall be discharged, it shall and may be lawful for the court to order that twelve of the remaining papers aforesaid, (not containing the names of any of the jurors in such other cause) be drawn in manner aforesaid, for the trial of the cause, which shall be so brought on to be tried.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That if a sufficient number of persons so summoned and returned as aforesaid, shall not appear at the court to which they shall be so summoned, or if, by reason of challenges or otherwise, there shall not be a sufficient number of jurors ready for the trial of any cause then brought on to be tried, in such case, upon order of the court for filling the jury from qualified bystanders, who shall be immediately summoned and returned by the sheriff, unless he be liable to some legal exception, and in such case to be returned by the coroner, unless he be also liable to such exception, and then to be returned by two proper and disinterested persons to be appointed by the court for that purpose, and the persons who shall be thereupon summoned and returned, shall attend and serve as jurors at such court accordingly, and in case any of the persons who shall be summoned from amongst bystanders, as aforesaid, shall refuse or neglect to attend as aforesaid, the court shall inflict such fine upon such defaulter as is herein before directed in other cases upon persons, who, being summoned as jurors shall fail to attend, and every such fine shall be levied, collected and paid over by the sheriff as is by this act enjoined.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That when a rule has been entered by either of the parties, in a civil action or cause depending in any court, for striking a special jury, the parties shall strike the same in the prothonotary's office from the list of jurors which may be drawn from the proper wheel, agreeably to the provisions contained in the first section of this act, to serve at the ensuing court, and where a view shall be allowed in any

cause, six of the first twelve of the jurors, or more of them named in the panel, shall be taken by the sheriff or other officer, who shall have the view, and such of the said viewers who appear at calling the jury to try the said cause, shall first be sworn or affirmed to try the same before any drawing as last aforesaid, and so many jurors only shall be drawn as aforesaid, to be added to the said viewers who appear, as shall, after default and allowed challenges, make up the number twelve, to be sworn or affirmed for the trial of such cause.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the sheriff, or coroner, as the case may be, to whom the return of process for the returning of juries shall belong, from time to time, shall enter, alphabetically, in a book to be kept for that purpose, the surnames of all such persons who shall be summoned, and who shall attend or serve upon juries in the said courts, with their christian names, additions and places of abode, and also the times of their respective services, and every person so summoned and attending, or serving as aforesaid, shall, upon application by him made to such sheriff, (or coroner) have a certificate testifying such his attendance or service; which certificate such sheriff (or coroner) is hereby directed and required to give, without fee or reward, and the said book shall be delivered over by said sheriff, (or coroner) from time to time, to his successor in office.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That whenever any verdict, in a civil action or cause, shall be taken, the plaintiff or defendant, for whom the same shall be given, shall forthwith pay to the sheriff the sum of four dollars, which shall be taxed with the costs, and afterwards repaid by the party against whom such verdict shall be given, if the same be a verdict wherein costs be recoverable, for the use of the party so advancing that sum, and the money so to be collected shall be paid into the hands of the county treasurer, to be appropriated towards a fund for defraying the expenses of the juries who shall attend on the said courts respectively, and the prothono-

tary or clerk of the respective court is hereby authorized and required, to certify to the commissioners of the proper county, the number of days each juror shall have served or attended, either as grand or petit juror, and he shall be paid one dollar for every day he may have thus served or attended, by the county treasurer, upon a warrant drawn by the commissioners; which certificates the prothonotary is required to give, without fee or reward: Provided always, that no compensation other than what has heretofore been provided shall be allowed to jurors for their services for the remainder of the present year, and provisions shall accordingly be made in estimating and laying the county rates in the several counties of this commonwealth.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That this act shall be of force and effect, so as to authorize the sheriff and county commissioners of the several counties to make the selection of jurors, in the manner required by the first section of this act, thirty days previously to any court to be holden after the twentieth day of August next, and such number only shall be selected as may be required for the courts to be holden in the city of Philadelphia, and respective counties, during the remainder of the present year: Provided, that a number sufficient shall be selected and deposited in the respective wheels, so that the number requisite for one jury, at least, shall remain in each wheel after the last drawing; and the jurors to serve at the several courts, mentioned in this act, shall be selected, summoned and returned in the manner before directed, and not otherwise.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That so much of any act as is by this act altered and supplied, be, and the same is hereby repealed.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of three years, and from thence to the end of the next sitting of the general assembly, and no longer.

CHAPTER MMDXC.

AN ACT TO REPEAL IN PART, THE ACT, ENTITLED, "AN ACT TO REGULATE FENCES, AND TO ENCOURAGE THE RAISING OF SWINE." (¹).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first day of July next, the act, entitled, "An act to regulate fences and to appoint appraisers in each township in the counties of Bedford, Northumberland, Washington and Fayette, and to encourage the raising of swine," passed the twenty-seventh day of March, one thousand seven hundred and eighty-four,⁽¹⁾ be, and the same is hereby repealed, so far as the same respects, and is in force, in the county of Luzerne.

Approved April, 1805. Recorded in L. B. No. 10, p. 153.

Note (¹). Chapter 1089; 11 Statutes at Large, p. 291.

CHAPTER MMDXCI.

AN ACT TO EMPOWER THE BOARD OF WARDENS, FOR THE PORT OF PHILADELPHIA, TO COLLECT A CERTAIN DUTY ON TONNAGE FOR THE PURPOSES THEREIN MENTIONED.

Whereas it has been represented to the legislature, that the access to the port of Philadelphia is considerably obstructed by a bar formed in the river Delaware, and that great losses have been sustained in consequence of the want of sufficient piers or places in the said river, for the security of vessels in the winter season: And whereas the Chamber of Commerce of the city of Philadelphia have requested, that vessels, employed in foreign commerce from the port of Philadelphia, should be subjected to the payment of a tonnage duty, and the proceeds thereof be employed in removing the said obstruction and in providing sufficient piers or other places of security in the said river, which request it is proper to grant; Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the master, owner or consignee of every ship or vessel which shall clear out from the port of Philadelphia, for any port or place out of the limits of the United States, shall before the departure of such ship or vessel, pay to the Board of Wardens of the said port, a tonnage duty of four cents for every ton which such ship or vessel shall measure, according to the rule which is or may be prescribed by the laws of the United States, for ascertaining the tonnage of ships or vessels; and if any such ship or vessel shall depart from the port before the payment aforesaid be made, the master, owner or owners, consignee or consignees thereof shall pay to the said wardens a sum equal to double the amount of the tonnage duty due on such ship or vessel, by virtue of this act, which may be recovered in the name of the said board before any alderman, justice of the peace or court of justice having lawful jurisdiction of the amount thereof, or the said board may, if they think it expedient, sue for and recover as aforesaid the tonnage duty due on any ship or vessel after she shall have received a clearance and before her departure.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said Board of Wardens shall have power to employ suitable persons to remove the obstructions to the navigation of the river Delaware below the city of Philadelphia, in such manner as to the said board shall seem most proper, and to erect and provide such piers and places as may be deemed necessary for the security of vessels navigating the said river, and for that purpose to obtain cessions to the commonwealth of the ground necessary for such piers or places: Provided nevertheless, that no cession shall be accepted, nor purchase made, nor engagements for the removing of obstructions, or for the erecting of any such piers or places of security be entered into, until the said Board of Wardens shall have submitted to the governor of this com-

monwealth a statement of the nature and conditions of the cession or purchase proposed, and the plan which they shall have formed for removing the obstructions, or providing the piers or places of security, with an estimate of the expense thereof, and shall have obtained his consent to carry the same into execution.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the tonnage duties, collected by virtue of this act, shall be appropriated by the Board of Wardens for the purposes aforesaid, and that the said board shall have power to borrow for the same purposes such sum or sums of money as may be thought necessary on the credit of the said duties.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said Board of Wardens shall keep fair and true accounts of all their receipts and expenditures under this act, and shall, at the expiration of every year, pay over to the state treasurer the balance remaining in their hands, and the same shall remain in the hands of the treasurer appropriated for the purposes aforesaid and no other, and subject to the draughts of the said Board of Wardens; and to the end and intent that fair and just accounts shall be kept and settlements made by the said wardens of all their transactions, in pursuance of this act, they are hereby enjoined and required to exhibit true and just accounts of all monies received and expenses incurred by them in the execution of the duties enjoined by this act, at the expiration of every year, to the register general of the commonwealth, who is hereby authorized and required to settle and adjust the same, in like manner as other accounts are settled by him, and subject to the like appeal, security, trial and costs, and in like manner to proceed and recover the balance or balances which shall be found due from the said wardens, or any of them, and no compensation shall be rendered by the said wardens for the performance of the duties enjoined on them by this act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That this act shall be in force at

the expiration of one calendar month after the consent of the congress of the United States shall be granted to the operation thereof, and notice of such consent published in one or more newspapers in the city of Philadelphia, and shall continue in force for seven years, and from thence to the end of the next session of the general assembly, and no longer.

Approved April 1, 1805. Recorded in L. B. No. 10, p. 153.

CHAPTER MMDXCII.

AN ACT GRANTING ARREARAGES OF STATE TAXES YET DUE FROM YORK COUNTY TO THE DIRECTORS OF THE POOR.

Whereas application hath been made to the legislature by petition, praying, that the arrearages of state taxes yet due from the county of York may be granted to the directors of the poor of said county, to assist in defraying the expense of erecting a house for the employment and support of the poor; and as it appears that there is but a small balance now due from said county: Therefore, in order to aid so laudable an undertaking,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the arrearages of state taxes now due from the county of York be, and they are hereby granted to the directors of the poor of said county, (provided they can have the same collected) to be by them applied in defraying the expense of erecting a house for the employment and support of the poor.

Approved April 1, 1805. Recorded in L. B. No. 10, p. 155.

CHAPTER MMDXCIII.

AN ACT DECLARING PART OF WYCONISCO CREEK, IN THE COUNTY OF DAUPHIN, A PUBLIC HIGHWAY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That Wyconisco creek, in the county of Dauphin, from the mouth thereof up to Isaac Ferree's mill dam, be, and the same is hereby declared a public highway, for the passage of rafts, boats and other vessels, and it shall be lawful for the inhabitants, and others desirous of using the navigation of said creek, to remove all natural and artificial obstructions which may be in the same, excepting dams for mills or other water-works, and also to erect such slopes at the mill dams now built in the said creek as may be necessary for the passage of rafts, boats or other vessels; provided such slopes be so constructed as not to injure the works of said dams, and also that any person or persons owning or possessing lands on said creek, shall have liberty to erect any dam or dams across the same, agreeably and subject to all the restrictions and provisions of an act of the general assembly of this commonwealth, passed the twenty-third day of March, one thousand eight hundred and three, entitled, "An act to authorize any person or persons owning lands adjoining navigable streams of water, declared public highways, to erect dams upon such streams for mills and other water-works."⁽¹⁾

Approved April 1, 1805. Recorded in L. B. No. 10, p. 156.

Note (1). Chapter 2353. Supra, this volume, p. 297.

CHAPTER MMDXCIV.

AN ACT FOR THE RELIEF OF THE SUPERVISORS OF WATERFORD TOWNSHIP, IN THE COUNTY OF ERIE, FOR THE YEAR ONE THOUSAND EIGHT HUNDRED AND TWO.

Whereas in pursuance of an act, entitled, "An act for laying out, making and keeping in repair the public roads and highways within this commonwealth, and for laying out private roads," passed the sixth day of April, one thousand eight hundred and two,⁽¹⁾ that Asa Bailey and John Lytle, senior, were appointed supervisors for Waterford township, in the county of Erie, for the year one thousand eight hundred and two, and that agreeably to said law their accounts were settled and adjusted, by the proper persons, on the twenty-fifth of March, one thousand eight hundred and three, and a balance found in favor of the said supervisors, amounting to the sum of thirty-seven dollars thirty-four cents, for which they received a due bill and certificate to be paid by their successors in office: And whereas it appears, that since the year one thousand eight hundred and two, the said township has been divided into two townships, and the new township struck off from Waterford is called M'Kean township, and the inhabitants of said township entirely work up all their road tax, so that no surplus has come into the hands of their successors to pay the balance as adjusted: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the next road tax which shall be assessed after the publication of this act, in the townships of Waterford and M'Kean, in the county of Erie, by the supervisors thereof respectively, that it shall and may be lawful for them, if they shall think the same expedient, to assess, levy and collect the sum of thirty-seven dollars and thirty-four cents on the inhabitants of said townships in addition to

the road tax to be assessed as aforesaid, and in the same ratio that is directed to be apportioned in the fifth section of an act, passed the sixth of April, one thousand eight hundred and two, entitled, "An act for laying out, making and keeping in repair the public roads and highways within this commonwealth, and for laying out private roads,"⁽¹⁾ and the supervisors of said townships shall, as soon as the said sum shall be levied and collected, pay it over to Asa Bailey and John Lytle, formerly supervisors of the township of Waterford, thereby to indemnify them for monies advanced in the year one thousand eight hundred and two.

Approved April 1, 1805. Recorded in L. B. No. 10, p. 156.

Note (1). Chapter 2298. Supra, this volume, p. 151.

CHAPTER MMDXCV.

A SUPPLEMENT TO AN ACT, ENTITLED, "AN ACT TO PROVIDE FOR THE ERECTION OF A HOUSE FOR THE EMPLOYMENT AND SUPPORT OF THE POOR IN THE COUNTY OF YORK." (1).

Whereas it hath been represented to the Legislature, that, in consequence of different claims to the site fixed on for the erection of a house for the employment and support of the poor in the county of York it would be improper to cause the necessary buildings to be erected thereon: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the present directors, (chosen in conformity to the act⁽¹⁾ to which this is a supplement) be, and they are hereby authorized to meet and to determine and fix up such site as to them, or a majority of them, may appear most eligible, and to cause the necessary buildings to be erected thereon, for the employment and support of the poor in the county of York, and shall certify their proceedings to the clerk of the quarter sessions of said county; which

proceedings shall be filed in his office, and shall have the same effect as if the same were or had been so determined by the trustees first appointed.

Approved April, 1805. Recorded in L. B. No. 10, p. 157.
Note (*). Chapter 2425. Supra, this volume, p. 550.

CHAPTER MMDXCVI.

A FURTHER SUPPLEMENT TO AN ACT, ENTITLED, "AN ACT DIRECTING THE DESCENTS OF INTESTATES REAL ESTATES AND DISTRIBUTION OF THEIR PERSONAL ESTATES, AND FOR OTHER PURPOSES THEREIN MENTIONED." (*).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That when any person or persons have heretofore died, or shall hereafter die intestate, seized of real estate, situate, lying and being in one tract, or in one or more tracts adjoining each other, on the line or lines of any county or counties in this commonwealth, whereby part or parts of the said tract, or adjoining tracts, is, are or may be in two or more of the said counties adjoining, it shall and may be lawful, in case of an application to the orphan's court of the county in which the principal mansion is situate, for an inquest to make partition or appraise the real estate of such intestate, to issue their writ to the sheriff of the county within the jurisdiction of said court, specifying the lands in the said county, and the county or counties adjoining, of which a partition or valuation is intended to be made, and thereupon it shall and may be lawful for the said sheriff to summon an inquest, according to law, to divide or value the said lands, in the same manner as if the whole were within his proper bailiwick, and upon the return thereof to the orphan's court, out of which such writ issued, the said court may further proceed thereon as if all the said lands were in the county and within the jurisdiction of said court, and to decree partition thereof, or allot the whole to any one of the heirs, according as the

inquisition may be returned to them, as fully and amply as they now may or can do, where real estate is wholly in any one county, and any recognizance or recognizances taken by them, in pursuance of such proceeding, shall be valid and effectual to all intents and purposes, and the final decree of such court thereon shall have the same operation, to vest the title of such estate in the heir or heirs who may accept of the same, as any decree of any orphan's court in any county within their jurisdiction heretofore has had: Provided, that no exemplification of the proceedings, which may at any time hereafter be had, shall, within twenty days after the final decree therein, be delivered to the clerk or clerks of the orphan's court or courts in such adjoining county or counties in which the application shall not have been made, and in which any parts of the said lands are or may be situated, which clerk or clerks shall enter the same of record on the orphan's court docket of his proper county, at the joint expense of all parties concerned therein.

Approved April 1, 1805. Recorded in L. B. No. 10, p. 158.
Note (¹). Chapter 1751; 15 Statutes at Large, p. 80.

CHAPTER MMDLXCVII.

A SUPPLEMENT TO AN ACT, ENTITLED, "AN ACT FOR THE CONSOLIDATION AND AMENDMENT OF THE LAWS AS FAR AS THEY RESPECT THE POOR OF THE CITY OF PHILADELPHIA, THE DISTRICTS OF SOUTHWARK, AND THE TOWNSHIP OF THE NORTHERN LIBERTIES."
(¹).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, all money levied, assessed and collected for the use of the poor of the city of Philadelphia, the district of Southwark, and the township of the Northern Liberties, shall be under the control and superintendence of the general board of guardians of the poor of said city and districts, and the

rules, regulations and restrictions of every department respecting the poor, shall be prescribed by the said board, and shall be obligatory on each and every of their officers and servants, excepting so far as relates to the internal regulation of the almshouse and house of employment, and no money shall be drawn from the treasury of the corporation but by an order of the general board, signed by their president, or, in his absence, by the chairman for the time being, and countersigned by the secretary.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That all vacancies which shall occur in the board of guardians, by death, resignation or otherwise, such vacancy shall be filled in the following manner; to wit, The president of the general board, upon satisfactory information given to the board of any vacancy having occurred, shall give notice, in writing, to the president of that constituent part of the board in which the vacancy has happened, requesting them to supply such vacancy within ten days thereafter, by the choice of one or more freeholder, or good and substantial housekeeper, to fill such vacancy, and upon every general or special election, the corporations of the city of Philadelphia, and the district of Southwark, and the justices of the peace of the township of the Northern Liberties, shall direct their respective clerks to give a written or printed notice to the person or persons so chosen, and a general return to the president of the board of guardians, which person or persons so chosen, to fill any vacancy as aforesaid, shall be entitled to all the rights, and subject to the like duties, fines and forfeitures as are granted or imposed by the act⁽¹⁾ to which this is a supplement.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That when it shall appear expedient to the general board of guardians of the poor to erect additional buildings, they shall present their plan to the select and common councils of the city of Philadelphia, the corporation of the district of Southwark, and the justices of the peace of the township of the Northern Liberties respectively,

and, if upon review of such plan by those bodies, they, or a majority of each of them, shall approve of and report the same to the board of guardians, it shall be the duty of the said board to publish proposals for erecting a building, agreeably to the plan so approved, and shall pay for the same out of any money in their treasury.

Approved April, 1805. Recorded in L. B. No. 10, p. 159.

Note (1). Chapter 2368. Supra, this volume, p. 385.

CHAPTER MMDXCVIII.

AN ACT TO REPEAL PART OF CERTAIN ACTS OF THE GENERAL ASSEMBLY FOR REGULATING THE FISHERIES OF CONESTOGA RIVER.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the fourth section of the act, entitled, "An act for regulating the fishery in the river Conestoga, in the county of Lancaster," passed the twenty-second day of January, one thousand seven hundred and seventy-four,⁽¹⁾ and so much of the second section of the act, entitled, "A supplement to an act, entitled, 'An act for regulating the fishery in the river Conestoga, in the county of Lancaster,'" passed the fourth day of October, one thousand seven hundred and eighty-eight,⁽²⁾ as prohibits, under certain penalties, the use of any sweep-net, draw-net, draught-net, cast-net, stalker, sturchel or shore-net, or nets of any other name or description, or any sein, or seines, in the river Conestoga, below the mouth of Muddy Creek, be and the same are hereby repealed.

Approved April 1, 1805. Recorded in L. B. No. 10, p. 160.

Note (1). Chapter 694; 8 Statutes at Large, p. 386.

Note (2). Chapter 1377; 13 Statutes at Large, p. 160.

CHAPTER MMDXCIX.

AN ACT FOR THE SPEEDY REDEMPTION OF CERTAIN CERTIFICATES
THEREIN MENTIONED.

Whereas by an act, entitled, "An act to compensate David Meade and others," passed the ninth day of March, one thousand seven hundred and ninety-six,⁽¹⁾ certain certificates were issued as evidences of credits in favor of the said David Meade and others; and as a part of the debt created by the said certificates remains unpaid, and as justice to individuals, as well as the interest of the state, requires that it should be speedily extinguished: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be optional with the holders of certain certificates, usually called "Wyoming Credits," issued under "An act to compensate David Meade and others," passed the ninth day of March, one thousand seven hundred and ninety-six,⁽¹⁾ as also the holders of those issued under an act, entitled, "An act for the relief of Peter Wikoff, Jonathan Bayard Smith, and others," passed the nineteenth day of February, one thousand eight hundred and one,⁽²⁾ to receive from the treasury of this commonwealth the amount of said certificates, or any of them, or to apply them in taking out warrants for lands, or in discharge of arrearages on former grants, and warrantee or warrantees who may pay the purchase money of the lands granted by any warrant or warrants, or any part of it in the certificates of either of the descriptions aforesaid, shall be as liable to the payment of fees, and the conditions of settlement and cultivation, as is or may be required of those who pay the purchase money in specie, and no credit shall be hereafter allowed to any person paying for

lands with the credits aforesaid, on account of expenses incurred in surveying or locating any lands; any custom or usage to the contrary notwithstanding.

Approved April 1, 1805. Recorded in L. B. No. 10, p. 161.

Note (¹). Chapter 1877; 15 Statutes at Large, p. 393.

Note (²). Chapter 2185; 16 Statutes at Large, p. 548.

CHAPTER MMDC.

AN ACT TO ORGANIZE THE PROVISIONAL COUNTY OF VENANGO.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first day of September next, the inhabitants of the county of Venango shall enjoy and exercise all and singular the jurisdictions, powers and privileges whatsoever within the same, which the inhabitants of other counties do, may or ought to enjoy within their respective counties by the constitution and laws of this commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the judges of the supreme court, the president of the sixth circuit or district, and the judges to be appointed in the said county of Venango, shall have and exercise like powers, jurisdictions and authorities within and over the same, as are or may be warranted to and exercised by the judges in other counties within this state.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the sheriffs, coroners, treasurers, and all such other officers as have usually given, or as, are or may be by law directed to give bail, for the faithful discharge of the duties of their offices, who shall hereafter be elected or appointed in the county of Venango, shall, before they enter on the duties of their offices, give sufficient sureties in the like sums, like manner and form, and for like purposes, uses and trusts, as similar officers are required to do in the county of Crawford.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the commissioners of the county of Venango, and they are hereby required, to erect, or cause to be erected, on such part of the public square in the town of Franklin, as they may deem best suited thereto, a court-house, prison, and offices for the safe keeping of the papers and records of said county, and, until such court house is erected, the courts of justice shall be opened and held in such house in said town as the judges and commissioners may think proper.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the commissioners of Venango county shall have authority to call on the commissioners of Crawford county for the purpose of examining, liquidating and receiving such balances as may be due to Venango county, and reserved for the use of the same, agreeably to an act, entitled, "An act to erect certain parts of Allegheny, Westmoreland, Washington and Lycoming counties into separate counties," passed the twelfth day of March, one thousand eight hundred.⁽¹⁾

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the inhabitants of Venango county, qualified to elect, shall, on the second Tuesday of October next, choose suitable persons for sheriffs, coroners and commissioners for said county, in the same manner, and under the same regulations and penalties, as similar officers are chosen in the other counties of this state; and said officers chosen and qualified as aforesaid, shall have and enjoy all and singular the powers, privileges and emoluments arising out of, or incident to, their offices respectively; and, until it shall be otherwise directed by law, the county of Warren shall be and the same is hereby annexed to Venango county, and the inhabitants of Warren county shall, in conjunction with those of Venango, have, exercise and enjoy all the privileges granted to the inhabitants of Venango county by this act, as fully as if the said county had been a component part of the county of Venango.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the courts of common pleas and quarter sessions of the peace for the county of Venango, shall, from and after the first day of December next, commence and be holden on the second Monday after the courts in Erie county, and no action or suit now commenced, or that may be commenced in Crawford county courts, before the first day of November next, against any person living or residing within the bounds of Venango and Warren counties, shall be stayed, discontinued, or affected by this act, but the same may be prosecuted to the final issue, in the same manner as if this act had not been passed.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That any law or laws, or part of any law which is, or are, by this act altered or supplied. shall be so far, and no farther, repealed and made void.

Approved April 1, 1805. Recorded in L. B. No. 10, p. 161.

Note (*). Chapter 2130; 16 Statutes at Large, p. 454

CHAPTER MMDCI.

AN ACT TO ENABLE THE GOVERNOR TO INCORPORATE A COMPANY TO MAKE AN ARTIFICIAL ROAD FROM THE SPRING HOUSE TAVERN, IN MONTGOMERY COUNTY, THROUGH STRAWNTOWN, IN BUCKS COUNTY, TO BETHLEHEM, IN NORTHAMPTON COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That Jacob Clemmens, John Roberts, Esq. and Christian Dull, of Montgomery county; David Thomas, Thomas Matthias and John Stokes, of Bucks county; and Abraham Levering, Thomas M'Keen and Abraham Minch, of Northampton county, be, and they are hereby appointed commissioners, to do and perform the several duties herein after mentioned; that is to say, they shall on or before the first day of May next, procure two books, and in each of them enter as follows: "We, whose names are hereunto subscribed,

do promise to pay the president, managers and company of the Spring house and Bethlehem turnpike road, the sum of one hundred dollars, for every share of stock in the said company set opposite to our respective names, in such manner and proportions as shall be determined by the said president and managers, in pursuance of an act of the general assembly, entitled, 'An act to enable the governor to incorporate a company for making an artificial road from the Spring house tavern, in Montgomery county, to Bethlehem, in Northampton county;' witness out hands the _____ day of _____ in the year of our Lord one thousand eight hundred and five;" and shall give notice in two of the public newspapers printed in the city of Philadelphia, and one in each of the counties of Montgomery, Bucks and Northampton, to be continued for one month, at least, of the times when and places where the said books will be open to receive subscriptions of stock for the said company, at which times and places two of the said commissioners shall attend, and shall permit and suffer all persons of lawful age, who shall offer to subscribe in the said books, which shall be kept open for the purpose, at least four hours in every juridical day, for the space of three days, if three days shall be necessary, and if, at the expiration of the said three first days, the said books shall not have seven hundred shares therein subscribed, the said commissioners may adjourn, from time to time, until the said number of shares shall be subscribed, of which adjournment public notice shall be given in at least two public papers; and when the said subscriptions in the said books shall amount to the number aforesaid, the same shall be closed: Provided always, that every person offering to subscribe in the said books, in his own name or in the name of any other person, shall previously pay to the attending commissioners ten dollars for every share to be subscribed, out of which shall be defrayed the expense attending the taking such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when sixty persons or more shall have subscribed three hundred shares or more of the said stock, the said commissioners may, or when the whole number of shares aforesaid shall be subscribed, they shall certify, under their hands and seals, the names of the subscribers and number of shares subscribed by each subscriber, to the governor, whereupon he shall, by letters patent under his hand and the seal of the state, create and erect the subscribers, and if the said subscription be not full at the time, then also those who shall thereafter subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The Springhouse and Bethlehem Turnpike Company;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding the said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary, to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, in fee simple, and for any less estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the commissioners herein before named shall, as soon as conveniently may be after the letters patent are obtained, give thirty days notice in two public newspapers printed in Philadelphia, one in each of the counties of Montgomery, Bucks and Northampton, one of which papers shall be printed in the German language, of the time and place by them appointed for the said subscribers to meet, in order to organize the said corporation, and to choose by a majority of votes of the said subscribers, by ballot to be delivered in person or by proxy duly authorized, one presi-

dent, twelve managers, one treasurer, and such other officers as shall be deemed necessary, to conduct the business of the said company, until the second Monday of November next, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations as do not contravene the constitution and laws of this commonwealth, and may be necessary for the well governing the affairs of the said company: Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the second Monday of November in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such officers for the ensuing year, in manner aforesaid, and at such other times to which they shall be summoned by the managers, as shall be prescribed by their by-laws; at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations, made as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed and held, he paying ten dollars for each share; which certificate shall be transferable at his pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer, subject however to all payments due and to become due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the

company, to be kept for the purpose, shall be a member of the corporation; and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock and of all the estate and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places as shall be ordained by their by-laws, and any seven members shall form a quorum, who, in the absence of the president may choose a chairman; they shall keep minutes of all their transactions, fairly entered in a book; and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers as they shall deem necessary to carry on their intended works, and fix their salaries and wages; to ascertain the times when, and manner and proportion in which the stockholders shall pay the monies due on their respective shares, in order to carry on the work, and to draw orders on the treasurer for all monies necessary to pay the salaries or wages of persons by them employed, and for the materials: Provided, such drafts shall be signed by the president, or, in his absence by a majority of a quorum; and generally to do all such other acts, matters and things as by this act and the by-laws, rules, orders and regulations of the company they shall be authorized to do.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if, after thirty days notice in two of the public newspapers printed in the city of Philadelphia, and one in each of the counties of Montgomery, Bucks and Northampton, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or dividend at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, or his assignee, shall, in addition to the dividends so called for, pay after the rate of five per centum per month, for delay of such payment; and if the

same and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalties shall become equal to the sums before paid in part, and on account of such shares, the same shall be forfeited to the said company, and may be sold to any person or persons willing to purchase, for such price as can be obtained for the same.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be lawful for the said president and managers, their superintendents, surveyors, artists and chain-bearers to enter into and upon all and every the lands and inclosures, in, through and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity that will be necessary for making and constructing said road, and to survey, lay down, ascertain, mark and fix such route or track for the same, as in the best of their judgment and skill will combine shortness of distance with the most practicable ground.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall be lawful for the said president and managers, their superintendents, engineers, artists and laborers, with their tools and instruments, carts, wagons, wains and other carriages, and with beasts of draught and burden to enter upon the lands, in, over, contiguous and near to which the route and track of the said intended road shall pass, first giving notice of the intention to the owners thereof or their representatives, and doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon agreement, if they can agree; or if they cannot agree, then upon an appraisement to be made upon oath or affirmation, by three disinterested freeholders, mutually to be chosen; or if the owners upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of the county not interested on either side, and the said

freeholders, or any two of them, agreeing, shall deliver their award to the said justice in writing, and on payment or tender of the appraised value, the said president and managers and their workmen may proceed to dig, take and carry away any stone, gravel, sand or earth being most conveniently situated for making or repairing the said road: Provided, that under the last manner of appointment of the said freeholders, either of the parties may appeal to the court in the usual manner within six days from the time of giving the award.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That if the said road shall be laid out upon any land, whereby the owner thereof shall suffer damage, the person or persons sustaining such damage may make application to the court of the county in which such damage is sustained, and thereupon the court shall appoint six disinterested persons to view and adjudge the amount of the damage so done, which, if approved of by said court, shall be paid by the company.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company shall cause a road to be laid out of not less than fifty feet, nor more than sixty feet in width, in such manner as that the present buildings on said road be not injured, and at least twenty-one feet thereof to be made an artificial road, bedded with wood, stone, gravel or any other hard substance, well compacted together, and of sufficient depth to secure a solid foundation to the same, and the said road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm, and as near as the materials will admit of it, an even surface, and so nearly level in its progress as that it shall in no place rise or fall more than will form an angle of four degrees with an horizontal line, and shall forever hereafter maintain and keep the same in good and perfect order from the Spring house tavern in Montgomery county, through Strawntown, in Bucks county to Bethlehem in Northampton county; and the said president,

managers and company shall have power to erect permanent bridges over all the waters crossing the said road.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That so soon as the company shall have perfected the said road, from the Springhouse tavern the distance of two and a half miles, and so from time to time any distance not less than five miles progressively, likewise when the remainder shall be finished, they shall give notice thereof to the governor, who shall thereupon forthwith nominate and appoint three disinterested persons to view and examine the same, and report to him, in writing, whether the said road is so far executed in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report shall, in either case, be in the affirmative, then the governor shall, by license under his hand and the less seal of this commonwealth, permit and suffer the said president, managers and company to erect and fix so many gates or turnpikes, upon and across the said road, as will be necessary and sufficient to collect the toll and duties hereinafter granted to the said company, from all persons traveling on the same with horses, cattle, carts and carriages: Provided, that no toll be demanded or taken from any person or persons passing or repassing from one part of his or her farm to another, and all persons attending funerals, places of worship, and all militiamen, on days of training, their horses and carriages, shall be exempt from the payment of tolls in going to and returning therefrom.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That when the said company is licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person or persons, using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding or leading any horse, or driving any horses, cattle or hogs, sheep, coach, coachee, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or any other carriage of burden or

pleasure, from passing through the said turnpikes, until they shall respectively have paid the same; that is to say, for every five miles in length of the said road, completed and licensed as aforesaid, the following sums of money, and so in proportion for any less distance, or for any greater or less number of sheep, hogs or cattle; to wit, for every score of hogs, six cents; for every score of sheep, six cents; for every score of cattle, twelve cents; for every horse and his rider, or led horse, three cents; for every sulky, chair or chaise, with one horse and two wheels, six cents; and with two horses, nine cents; for every chariot, coach phaeton or chaise, with two horses and four wheels, twelve cents; for either of the carriages last mentioned, with four horses twenty cents; for every other carriage of pleasure under whatever name it may be known, the like sums according to the number of wheels and horses drawing the same; for every stage-wagon, with two horses, twelve cents; and for every such wagon, with four horses twenty cents; for every sleigh, three cents for each horse drawing the same; and for every sled, two cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall exceed four inches and not exceed seven inches, three cents for every horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches shall roll more than ten inches, two cents for every horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than ten inches and not exceed twelve inches, or being ten inches shall roll more than fifteen inches, one cent for every horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than twelve inches, one cent for every horse drawing the same; and if any person or persons shall represent to the said company, or any of their officers, that he, she or they have traveled a less distance than he, she or they have actually traveled along the said road, with intent to defraud the said company of its toll, or any part thereof, such person or persons shall, for every such of-

fense forfeit and pay to the use of the said company, the sum of sixteen dollars; and if any toll-gatherer shall demand and receive toll for a greater distance than the person of whom such toll is demanded shall have traveled along the said turnpike road, or shall demand and receive greater toll from any person or persons than such toll-gatherer is authorized to demand and receive, by virtue of this act, such toll-gatherer shall forfeit and pay the sum of twenty dollars, for every such offense, to the use of the poor of the township in which the forfeiture is incurred; but if there be no poor, then to the supervisors for the repair of the roads in said township, and for the payment of which the said company shall be responsible.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That all such carriages as aforesaid, which may be drawn by oxen, or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse, in charging all the aforesaid tolls; and every mule as equal to one horse.

Section XV. (Section XV, P. L.) And be it further enacted by the authority of the same, That if the said company shall neglect to keep the said road in good and perfect order for the space of five days, and information thereof shall be given to any justice of the peace of the neighborhood, within the county where the repair ought to be made, such justice shall issue a precept to be directed to any constable, commanding him to summon three disinterested persons to meet at a certain time, in the said precept to be mentioned, at the place in the said road of which complaint is made, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto within the said county, and the said justice shall, at such time and place, on the oaths or affirmations of the said persons, enquire whether the said road, or any part thereof, is in good and perfect order and repair as aforesaid, and shall cause an inquisition to be made under the hands of himself and a majority of the said persons, and if the said road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the

said justice shall so certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted, to be collected at such turnpikes or gates, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair as aforesaid; and if the same shall not be so put into good and perfect order and repair, before the next general court of quarter sessions of the peace, to be held for the county in which the defect is proved to be, the aforesaid justice shall certify and send a copy of the inquisition aforesaid, to the justices of the said court; and the said justices shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be so found defective, and shall direct a bill of indictment to be sent to the grand-inquest against the person or persons entrusted by the said company as aforesaid, and upon conviction shall give such judgment, according to the nature and aggravation of the neglect, as the court may deem just and proper; and the fines and penalties so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said court, and shall be paid to the supervisors of the highways of the township wherein the offense was committed; to be applied to repairing the public roads within such township.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whomsoever, owning, riding in, or driving any sulky, chair or chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of pleasure or burden, riding or leading any horse, mare or gelding, or driving any hogs, sheep or other cattle, shall therewith pass through any private gates or bars, or along or over any private passage way, or other ground near to, or adjoining any turnpike, or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company, and avoid the payment of the toll or duty for

passing through any such gate or turnpike; or if any person or persons shall, with such intent, take off, or cause to be taken off, any horse, mare or gelding, or other cattle, from any sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriage of pleasure or burden or practice any other fraudulent means or device, with the intent that the payment of any such toll or duty may be evaded or lessened, every person or persons, in all or any of the ways or manners aforesaid, offending, shall, for every such offense respectively, forfeit and pay to the president, managers and company of the Springhouse and Bethlehem turnpike road, any sum not exceeding ten dollars; to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations as debts of a similar amount may be sued for and recovered: Provided always, that if any person or persons shall be prosecuted under this section of the act, and the said prosecution shall not be sustained on the part of the prosecutors, then, and in such case, the person or persons prosecuted as aforesaid, shall receive from the company the sum of ten dollars, in lieu of damages arising from delay and vexatious prosecution; recoverable as other fines under this act.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of all monies received by them from the said commissioners, and from the subscribers to the said undertaking, on account of the several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also all monies by them expended in the prosecution of their said work; and shall, once at least in every year, submit such account to a general meeting of the stockholders, until the said road shall be complete, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or whenever the capi-

tal stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the monies subscribed for such shares in like manner, and under like penalties, as are hereinbefore provided for the original subscription, or as shall be provided by their by-laws.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said president, managers and company, shall also keep a just and true account of all and every of the monies received by their several and respective collectors of tolls, at the several and respective gates or turnpikes on the said road, from the beginning to the end thereof, and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the subscribers to the said company's stock, and shall on the first Monday in November and May, in every year, publish the half-yearly dividend made of the said clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall, at the end of every year from the date of the incorporation, until the whole road shall be completed, lay before the general assembly an abstract of their accounts, showing the whole amount of capital expended in prosecution of the said work, and of the income and profits arising from the tolls for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof

may be ascertained and known; and if at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear from the average profits at the end of the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum, on the whole capital stock of the said company so expended, then it shall and may be lawful for the said president, managers and company, to increase the tolls herein before allowed, so much upon each and every allowance thereof, as will raise the dividend up to six per centum per annum, and at the end of every year after the said road shall be completed, they shall render unto the general assembly a like abstract of their accounts, and if at any time the said clear income and profits thereof shall exceed a dividend of nine per centum per annum, the surplus above that amount, when sufficient shall arise, shall be appropriated by the said president and managers to the purchase of such share or shares of the said stock, as the money arising from the said surplus as aforesaid, will be found adequate to purchase, until all the said shares shall be so purchased, and the said subscribers shall determine by lot, from time to time, whose share or shares shall be paid off, for which shares the said company shall pay the sums which were originally paid for each respective share, and when the whole number of shares shall be purchased as aforesaid, then the said road shall be free, and no toll whatever shall be exacted.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected and continued at the intersection of every public road leading out of the said turnpike road, with a board and index-hand pointing to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town, village or place to which such road leads, and the distance thereof in measured or computed miles.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause mile-stones to be placed on the side of the said road, be-

ginning at the distance of one mile from the Springhouse, and extending thence to the termination of the turnpike aforesaid, whereon shall be marked, in plain legible characters, the respective number of miles which each stone is distant from Philadelphia, and, at every gate or turnpike by them to be fixed on the said road, shall cause the distance from the Springhouse and the distance from the nearest gates or turnpikes, in each direction to be marked in legible characters, designating the number of miles and fractions of a mile, on the said gates or some other conspicuous place, for the information of travellers and others using the said road; and if any person shall willfully destroy the said posts, boards, index-hands or mile-stones, or deface the same, or deface the directions made on the said gates, or other conspicuous places, as aforesaid, or shall, without permission of the acting superintendent of the said road, throw out upon the said road, or within the limits of the same, and suffer to remain for the space of one day, any mould, dirt, shavings, weeds, or rubbish of any kind, such person being convicted thereof by the evidence of one or more credible and disinterested witness or witnesses, before any justice of the peace of the county not interested in the road, he or she shall be adjudged, by the said justice, to pay a fine not exceeding ten dollars, to be recovered, with costs, as debts of equal amount are or may be by law recoverable; which fine, when recovered, shall be paid by the said justice to the treasurer of the said company, for the use of the said company.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road, in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars, to any person who shall be obstructed in his passage,

and will sue for the same; to be recovered, with costs, before any justice, in the same manner as debts of equal amount are or may be by law recoverable.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That if the company shall not proceed to carry on the said work within three years after the passing of this act, or shall not, within fifteen years afterwards, complete the said road, according to the true intent and meaning of this act, then, in either of those cases, all and singular the rights, liberties, privileges and franchises hereby granted to the company, shall revert to the commonwealth.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and thirty, think proper to take possession of the said road, three persons shall be appointed by the governor, three by the president and managers of the said company, and three by the judges of the supreme court, who are hereby required to appoint the same, who, or any six or more of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor, who shall cause the same to be laid before the legislature at their next session, and whenever the amount so certified shall be paid by the state to the said company, their right, to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.

Approved April 4, 1805. Recorded in Book No. 10, p. 163.

CHAPTER MMDCII.

AN ACT ENJOINING CERTAIN DUTIES ON THE HOLDERS OF LAND WARRANTS NOT EXECUTED, AND ON THE HOLDERS OF UNSEATED LANDS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be the duty of all persons now holding or that may hereafter hold unexecuted land warrants, to file or enter the same with the surveyors of the proper district within two years after the passing of this act, or within two years after the date of such warrants respectively, and on failure thereof, such warrant or warrants shall not have any force or effect against a warrant of later date, nor against an actual settler on the lands called for in such unexecuted warrant.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of all holders of unseated lands to file his, her or their title or claim with the commissioners of the proper county, within one year from and after the passing of this act, or within one year after he, she or they shall become possessed of the title or claim to such lands, and, on failure thereof, it shall be the duty of the county commissioners whenever such lands shall come to their knowledge, to assess on said lands four times the amount of tax that such lands would have been liable to had they not been secreted, and to enforce the collection thereof in the same manner that taxes due on unseated lands are or may be assessed and collected: Provided always, that nothing in this act contained shall be construed as giving any greater validity to unexecuted land warrants than they are now entitled to, nor to the detriment of persons under legal disabilities: Provided, such person or persons comply with the foregoing requisitions within the time or times limited respectively after such disability shall be removed.⁽¹⁾

Approved April 4th, 1805. Recorded in L. B. No. 10, p. 174.

Note (1). See a supplement to the act in the text Chapter 2721. (Act March 28, 1806, P. L. 644). 18 Statutes at Large.

CHAPTER MMDCIII.

AN ACT DECLARING WYALUSING CREEK A PUBLIC HIGHWAY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That all that part of Wyalusing creek, situate between the mouth thereof and Picket's mill, near the forks of said creek, be and the same is hereby declared a public highway for the passage of boats and rafts, and it shall and may be lawful for persons desirous of using the navigation of said creek, to remove all natural and artificial obstructions; and to erect such slopes and locks at the mill dams now built as may be necessary for the passage of boats and rafts: Provided, such slopes and locks shall be so constructed as not to injure the works of said dams.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 174.

CHAPTER MMDCIV.

AN ACT TO AUTHORIZE THE INHABITANTS OF CAMBRIA COUNTY TO ELECT WITH THE INHABITANTS OF SOMERSET COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the inhabitants of Cambria county shall elect with the inhabitants of Somerset county for members of federal and state legislatures, and also for county officers, until said county shall be organized.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 175.

CHAPTER MMDCV.

AN ACT DECLARING PARTS OF THE BRANCHES OF PINE CREEK, IN THE COUNTIES OF TIOGA AND POTTER, PUBLIC HIGHWAYS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the west branch of Pine creek from the Third fork, in the county of Tioga, to the forks at Elk-lick, in the county of Potter, and also the said Third fork from its mouth to Morris's marsh, in the said county of Tioga, shall be, and the same are hereby declared to be public highways, for the passage of boats and rafts, and it shall and may be lawful for the inhabitants, and others desirous of suing the navigation of the said branches, to remove all natural or other obstructions in the same: Provided nevertheless, that any person or persons owning or possessing lands on the said branches, shall have liberty to erect any dam or dams across the same, agreeably and subject to the restrictions and provisions of the act of the general assembly of this commonwealth, passed on the twenty-third day of March, one thousand eight hundred and three, entitled, "An act to authorize any person or persons owning lands adjoining navigable streams of water, declared public highways, to erect dams upon such streams for mills and other water-works."⁽¹⁾

Approved April 4, 1805. Recorded in L. B. No. 10, p. 175.

Note ⁽¹⁾. Chapter 2353. Supra, this volume, p. 297.

CHAPTER MMDCVI.

AN ACT APPROPRIATING A SUM OF MONEY FOR VIEWING AND OPENING A ROAD FROM THE TOWN OF SOMERSET, IN THE COUNTY OF SOMERSET, TO GREENSBURGH, IN THE COUNTY OF WESTMORELAND.

Whereas it has been represented to the legislature, that a road if laid out and opened in a direct course from the town

of Somerset, in the county of Somerset, to Greensburg, in the county of Westmoreland, would be a great accommodation to the inhabitants of the adjacent country, and as a public post-road of general utility: And whereas it appears that a great part of the country through which the road must pass is mountainous and uninhabited, so that a road cannot be opened by the township in the usual way: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the governor is hereby authorized to appoint three commissioners, one of whom shall be a practical surveyor, to lay out and mark a public highway from the town of Somerset, in the county of Somerset, in the most direct practicable route to Greensburg, in the county of Westmoreland, and the said commissioners shall proceed to perform said service at such time as the governor shall direct, and shall cause a draft of said road to be deposited in the office of the secretary of the commonwealth, and shall also deposit a copy of said draft in the prothonotary's office in each of the counties of Somerset and Westmoreland, which shall be deemed a record of said road, which from thenceforth shall be to all intents and purposes a highway, and shall be kept in repair as other roads laid out by order of the courts of quarter sessions are in said counties.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That each of said commissioners shall receive two dollars for each day he shall be employed in the service aforesaid, exclusive of reasonable allowance to chain-carriers, to be paid in equal proportions by the treasurers of Somerset and Westmoreland counties, out of the county stock on warrants of the commissioners of the respective counties.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the sum of eight hundred dollars is hereby appropriated to the purposes of this act, to be paid out of the arrearages of state taxes yet due from West-

moreland county; to be paid by the treasurer of said county on a warrant or warrants of the commissioners thereof, out of the arrearages of state taxes aforesaid, and not otherwise; which sum so paid shall be allowed the said treasurer on the settlement of his accounts.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the sum hereby appropriated shall be applied to the opening of the aforesaid road within the county of Westmoreland, and shall be expended under the direction of the commissioners thereof, always giving a preference to the mountainous and uninhabited parts of the said road.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 176.

CHAPTER MMDCVII.

A FURTHER SUPPLEMENT TO AN ACT, ENTITLED, "AN ACT FOR THE REGULATION OF THE MILITIA OF THE COMMONWEALTH OF PENNSYLVANIA." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That no person who may hereafter be placed on the list of exempts, agreeably to the directions of the first section of the act⁽¹⁾ to which this is a supplement, shall have the right to appeal to nor be exonerated from the payment of the tax or fine imposed on exempts, by any court or tribunal whatever, other than the court of appeals of the proper battalion within whose bounds such exempt or exempts resides; and it is hereby declared, that the county commissioners shall not have or exercise any power or authority whatever to exonerate or make any allowance or abatement to any exempt or exempts, excepting only in such case in which a certificate of exoneration shall be produced and delivered to such commissioners by any such exempt, under the signature of the president of the proper court of ap-

peals, and any such certificate, so produced and delivered to the commissioners of any county, shall be by them preserved in their proper office, and shall be ready to be produced whenever the same may be required, to ascertain the fact and ground of such exoneration or otherwise; and if any head of a family shall hereafter refuse to give an account to any captain or commanding officer, of any inmate or inmates liable to militia duty when legally called upon, residing, boarding, or lodging in such family, or occupying any part of the dwelling house, or shall willfully conceal the name or names of any such inmate or inmates, boarder, lodger or occupier, he or she so offending shall forfeit and pay any sum not exceeding twenty dollars; to be recovered before any justice of the peace, in like manner as debts of the same amount are or may be recoverable by law.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when, by virtue of the arrangement made in the third section of the act⁽¹⁾ to which this is a supplement, one-eleventh part of the militia within the bounds of any company, shall have attached themselves to any of the troops of horse belonging to the brigade, no more of the militia within the bounds of such company shall be permitted to join any such troop of horse without the consent of the commanding officer of the said company, to be by him expressed by a written certificate thereof.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That in addition to the officers enumerated in the seventh section of the act⁽¹⁾ to which this is a supplement, the governor is hereby authorized and required to appoint a quarter-master general of the militia; and the brigadier-generals shall appoint a quarter-master of brigade, in their brigades respectively; and the field officers of each regiment, or a majority of them, shall appoint one chaplain to their respective regiments.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the commission of major shall not be vacated by any removal, provided such major do not re-

move out of the bounds of his proper regiment; nor shall the commission of captain or subaltern within the township of Germantown, in the county of Philadelphia, or within any incorporated town or borough, be vacated by any removal of such officer, provided he do not remove out of the bounds of his proper regiment; and within the limits of the city of Philadelphia, the field officers of any regiment may be elected from any part or place within the bounds of the city brigade, and the company officers may be elected from any part or place within the bounds of their proper regiment; and in case of removal by any commissioned officer heretofore elected, or who may hereafter be elected within the city brigade, the commission of such officer shall not be vacated in consequence thereof, provided he do not remove out of the bounds of his brigade; and any vacancy which now exists, or may hereafter happen in the eighty-eighth regiment, now or late commanded by colonel Bowers, or in the forty-second regiment, now or late commanded by colonel Krips, if in the commission of a field officer, may be filled with any proper person residing within the bounds of either of the said regiments; and if in the commission of any company officer, such vacancy may be filled with any proper person within the bounds of his proper regiment; and in case of the removal of any commissioned officer heretofore elected, or who may hereafter be elected, his commission shall not be vacated in consequence thereof, provided such officer do not remove out of the bounds of the said two regiments; any thing in the eighth section of the act⁽¹⁾ to which this is a supplement, to the contrary notwithstanding.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the oath or affirmation directed to be administered by the seventeenth section of the act⁽¹⁾ to which this is a supplement, by any judge or justice of the peace, to officers appointed to hear appeals, shall and may be administered by any of the field officers or any of the commissioned officers, any of which officers shall have the like power and authority to administer an oath or affirmation when necessary in cases of militia elections, or at courts martial,

and to witnesses attending to be examined before such court, or to any officer or board of officers, who, previously to the execution of any duty to be performed by him or them under the militia laws, is, or are required to act under oath or affirmation; any thing contained in the act⁽¹⁾ to which this is a supplement, to the contrary notwithstanding.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the commanding officers of militia companies shall, and they are severally and respectively enjoined and required to deliver in writing, to the proper paymaster, the name or names of any constable or constables to whom any warrant or warrants has, have or may be directed and delivered to collect any fine or fines which have been or may be incurred, or is or are recoverable by or under the nineteenth section of the act⁽¹⁾ to which this is a supplement, and the said paymaster is hereby authorized, directed and enjoined, under the penalty of fifty dollars, in case of his refusal or neglect so to do, to compel the payment of, and to collect all monies which shall not be paid over by the said constable or constables, within the times limited by the said act;⁽¹⁾ and in each regiment of militia a board of field-officers shall be convened twice in each and every year; to wit, on the fourth Mondays in June and November, who shall be under oath or affirmation; and, if necessary, shall have power to meet upon their own adjournments for the purpose of exonerating any such constable or constables from being accountable for any fine or fines which it may be impracticable or improper for them to collect, and no constable or constables by virtue of any warrant or warrants to be hereafter delivered to them, shall take or receive from any delinquent or delinquents five per centum on the amount of any fine or fines as is directed by the said nineteenth section, but, in lieu thereof, such constable or constables shall be entitled to have and receive ten per centum on the amount by him or them collected and paid over out of the regimental funds; and the colonels or commanding officers of regiments respectively, shall direct and compel the paymaster to enforce the collection and payment over of all fines

within the time limited by law, and in case of neglect or refusal of any colonel or commanding officer so to do, on complaint thereof made and exhibited to the commander in chief, if such charge shall be substantiated, such colonel or commanding officer shall be removed, and his commission be vacated; and no paymaster shall be allowed to resign without the consent of the field-officers, until all the fines for the year in which he may desire to resign shall be collected and paid over, and all fines incurred for which warrants have been issued according to law, but which have not heretofore been collected and paid over within the time limited by law, shall be collected and paid over, for which purpose the commanding officers of regiments respectively, are hereby enjoined forthwith to institute enquiries, and to direct and compel the paymasters respectively to collect all such fines without delay, and in any case where such warrant may not have been issued or made out within the time limited by law, new warrants shall be forthwith issued by the commanding officer of the regiment, for the collection of such fines, which shall be collected and paid over in like manner and under the same penalties as herein and by the act⁽¹⁾ to which this is a supplement is directed; and in any case where the commanding officer of a company shall not issue his warrant within the time appointed by law, it shall be the duty of the paymaster forthwith to enforce the payment of the fine imposed by the nineteenth section of the act⁽¹⁾ to which this is a supplement; to be recovered as debts of equal amount are or may be by law recoverable, and to be appropriated to the use of the regimental funds; and in all cases where the payment of any fine may be enforced, and no property can be found to satisfy and discharge the same, the constable shall take the body of such delinquent in execution and commit him to the common jail of the proper county until he shall pay the same, or be discharged by the due course of law; any thing contained in the act⁽¹⁾ to which this is a supplement to the contrary notwithstanding.

Secion VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of

the commanding officer of each company to transmit to the court of appeals a list of the names of all the absentees, and the fines charged for non-attendance on days of training, as also the names of exempts as directed in the twenty-third section of the act⁽¹⁾ to which this is a supplement, upon oath or affirmation, and the officers holding appeals are hereby enjoined and required to make return of all delinquents whose fines shall not be remitted, to the commanding officer of the company for which the court of appeal shall have been held within two days after such court of appeal shall have adjourned.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the quarter-master of the proper regiment is hereby enjoined and directed to execute the warrant of the commanding officer of the regiment, for the due collection of the fine imposed by the forty-first section of the act⁽¹⁾ to which this is a supplement, and to pay over the fines collected by virtue of such warrant to the paymaster of his proper regiment, under the like penalties as are specified in the nineteenth section of the said act,⁽¹⁾ and such quarter-master shall not be permitted to resign before all the fines set forth in such warrant, or in any schedule to be thereto annexed for the year in which he may be desirous to resign, shall be duly collected and paid over, without the consent of the field-officers of his regiment; and all such fines which have been incurred under the forty-first section of the act⁽¹⁾ to which this is a supplement, and which are now due, for the collection of which no warrants have issued, or where warrants have been issued and the fines not collected and paid over, or in cases where warrants have not been issued according to law, such fines shall be forthwith collected, for which purpose the commanding officer of the proper regiment shall institute enquiry and ascertain what fines are or may be due, and shall, without delay, enforce the collection thereof; and in all cases where warrants have not been issued according to law, new warrants shall forthwith be issued by the colonel or commanding officer, for the collection of such fines, which shall be col-

lected and paid over, as herein and by the act⁽¹⁾ to which this is a supplement is directed; nor shall any officer of any company be permitted to resign, until it shall appear to the satisfaction of the field-officers of the regiment that he has duly performed all the duties required of him by law, previously to such intended resignation, nor until he shall have delivered up to his colonel or commanding officer all the public property in his possession as a militia officer belonging to this commonwealth; and all resignations shall be made as follows; that is to say, a company or regimental staff officer to the colonel or commanding officer of the regiment, a field-officer to the brigadier general, and a general officer to the commander in chief; and the commanding officer of each regiment shall make returns of all resignations to the brigade inspectors; and the commanding officers are hereby respectively enjoined not to permit any ardent spirits to be sold by sutlers near the place of parade; and in case any officer, who shall have been appointed a member of the court of appeal, shall be obliged to attend any court of justice on representation thereof to the commanding officer, he shall appoint another in his place; and the officers appointed by the nineteenth section of the act⁽¹⁾ to which this is a supplement, to settle the accounts of the paymasters, shall, within ten days after each settlement, publish the same; and in any case where vacancies have been neglected to be filled by companies, the field officers with the approbation of the brigade inspector, are hereby authorized to fill such vacancies with proper persons residing within the bounds of the regiment: Provided, that if no person can be found in the regiment who shall be willing to serve as an officer of the company aforesaid, then, in such case, the brigade inspector is hereby authorized to appoint a person who shall, agreeably to the provisions of the act⁽¹⁾ to which this is a supplement, make a return of such company as exempts to him; which return shall be as valid to all intents and purposes as if made by a proper commissioned officer of said company.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That all arrearages of fines which

are due and recoverable under the act, entitled, "An act for the regulation of the militia of the commonwealth of Pennsylvania," passed the eleventh day of April, one thousand seven hundred and ninety-three,⁽²⁾ shall be forthwith collected by virtue of warrants issued from under the respective hands and seals of the brigade inspectors, directed to the constable of the proper township, who is hereby required and enjoined to execute the same, under the penalty of twenty dollars; to be recovered, by the brigade inspectors in the name and for the use of the commonwealth, as debts of equal amount are or may be by law recoverable, which monies shall be collected and paid to the proper inspector who shall pay the same to the treasurer of the commonwealth; and in case any delinquent shall neglect or refuse to pay the fine or penalty incurred by him, and no property can be found to satisfy and discharge the same, the constable shall take the body of such delinquent and commit him to the common jail of the proper county, until he shall pay the same, or be discharged by the due course of law; and within nine months after the passing of this act the brigade inspectors respectively shall make return to the comptroller general of their proceedings, relating to the duties hereby enjoined on them, together with an account of the monies by them received and paid over as aforesaid, under oath or affirmation; and in case of neglect or refusal in any brigade inspector aforesaid, to perform the duties hereby enjoined, the comptroller general shall forthwith report such brigade inspector to the governor, who, upon proof of such refusal or neglect in any inspector aforesaid, shall remove such brigade inspector from office; and in all cases where there is reason to presume that any brigade inspector has not fully complied with the duties required by this act, according to the true intent and meaning thereof, the comptroller general shall forthwith proceed, agreeably to the forty-sixth section of the act⁽¹⁾ to which this is a supplement, and the agent by him appointed, before he enters on the duties of his appointment, shall take an oath or affirmation faithfully to execute the duties enjoined and required.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That there may be raised one additional company of artillery within the bounds of the second brigade of Philadelphia county militia; which company, when so raised, shall be officered in like manner, and shall be entitled to the same advantages, and in all respects be subject to the same regulations and restrictions, as companies of the same rank are entitled and subject to by and under the act⁽¹⁾ to which this is a supplement; anything contained in said act to the contrary notwithstanding.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That no militiaman who may join any volunteer troop of horse or company of artillery, grenadiers, light-infantry or riflemen, shall have the privilege of leaving the troop or company he so joined, in order to become a member of another troop or company, without the consent of a majority of the officers commanding that troop or company in which he is enrolled, be first had and obtained; and in all cases where any volunteer is desirous to leave the troop or company of which he is a member, he shall make his intentions known to his officers, who shall thereupon take the reasons assigned by such volunteer into consideration, and if the reasons so assigned shall appear satisfactory to a majority of them, the commanding officer of such troop or company shall grant the volunteer, so applying, a discharge; and no captain or commanding officer of any volunteer troop or company shall admit any person a member of the troop or company under his command as aforesaid, without the person, so applying, shows a regular discharge from the troop or company to which he previously belonged.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the militia within the bounds of Somerset, Cambria and Indiana counties, and such parts of Westmoreland county, as are connected with the said counties, in the formation of any regiment or battalion, may

be trained and exercised in battalions or regiments, as may appear to the field officers most convenient for the inhabitants of said counties.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 177.

Note (*). Chapter 2302. *Supra*, this volume, p. 174.

Note (*). Chapter 1696; 14 Statutes at Large, 454.

CHAPTER MMDCVIII.

AN ACT GRANTING TO THOMAS PRICE A LOT OF DONATION LAND.

Whereas it appears that Thomas Price, early in the revolutionary war, served as sergeant in Colonel Miles' regiment; that in the battle of Long Island he was wounded and taken prisoner; that, to preserve life, he was forced to enlist with the enemy; was by them transported to Nova Scotia, from whence he made his escape, by traveling, by land, round the head of the bay of Fundy to New England, and thence to the army, where he faithfully served out the remainder of the period of his enlistment; that in consequence of the wound he received in the service, and his advanced age, he is unable to procure a livelihood by labor; and whereas it is reasonable to make this patriotic citizen some compensation for his services: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the proper officers are hereby authorized and required to place Thomas Price on the list of those entitled to donation lands, and on his application, by himself or his attorney duly authorized, shall draw and patent to him such donation land as he would have been entitled to, as a sergeant, if he had served to the conclusion of the war.

Approved April 4, 1805. Recorded in L. B. No. 10, p 183

CHAPTER MMDCIX.

AN ACT TO AFFORD RELIEF TO THE ACADEMY AT EASTON IN NORTH-AMPTON COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be and he is hereby authorized and directed to draw his warrant on the state treasurer for the sum of two thousand dollars, in favor of the trustees of the Easton Union Academy, for the purpose of enabling them to complete the building for the use of the said institution; to be paid out of the funds appropriated for the support of government.

Approved April 4, 1805. Recorded in Book No. 10, p. 183.

CHAPTER MMDCX.

AN ACT AUTHORIZING THE APPOINTMENT OF COMMISSIONERS TO FIX UPON A PROPER SITE FOR THE SEAT OF JUSTICE IN CLEARFIELD COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be, and he is hereby authorized and required to appoint three disinterested commissioners who do not reside or own any land in the county of Clearfield, which commissioners, or a majority of them, shall meet at the house of Benjamin Patton, in the town of Bellefonte, on the twentieth day of May next, and from thence proceed to view and determine on the most eligible and proper situation for the seat of justice and public buildings for the said county of Clearfield, and make their report into the office of the secretary of the commonwealth on or before the first Monday of December next.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the aforesaid commissioners shall have power, and it shall be their duty, to take assurance by deed, bond or otherwise, of any lands, lots, monies or other property which hath been or may be offered for the use and benefit of the said county, either for the purpose of erecting public buildings, the support of an academy, or other public use, and for the services aforementioned, each of the said commissioners shall receive three dollars per day for every day he shall be necessarily employed on the business aforesaid; to be paid by warrants drawn by the commissioners of Centre county on the treasurer of said county, out of the monies arising from taxes levied, assessed and collected from Clearfield county.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 184.

CHAPTER MMDCXI.

AN ACT CONCERNING ELECTION DISTRICTS.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the electors of the township of Meade, in the county of Crawford, shall hold their elections at the court house in the town of Meadville.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the township of Mahantango in the county of Northumberland, shall form an election district, and the electors thereof shall hold their general elections at the house of Frederick Sites, in said township.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That Pitt township in the county of Allegheny, shall be erected into a separate election district, and the electors thereof shall hold their general elections at the house now occupied by Thomas Wilson, in said township.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That Saint Clair township, in the county of Allegheny, shall be erected into a separate election district, and the electors thereof shall hold their general elections at the house now occupied by Thomas M'Culley, in said township.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the electors of Ohio township, in the county of Allegheny, shall hold their general election at the house now occupied by John Moore, in said township.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the electors of Moon township, in the county of Allegheny, shall hold their general elections at the house now occupied by John Byers, in said township.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That part of Greene county, included within the following boundaries, viz. Beginning at Washington county line, at the house of Thomas Carter, thence along the ridge dividing the waters of Batses fork and those of Brown's run to Michael Turner's; thence in a right line to Benjamin Clark's; thence down Hothoway's run to the south fork of Ten Mile Creek; thence along the ridge which divides the waters of south, from those of M'Cortney's fork to the head of Fish creek; thence along the ridge dividing the waters of Fish creek, and those of Wheelen to the line of Virginia; thence along the line of Greene county to the place of beginning, including the dwellings aforesaid, shall be a separate election district, to be called the fifth district, and the electors thereof shall hold their general elections at the house now occupied by Daniel Gray, Esq., in the district aforesaid.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the township of Caernarvon, and part of the townships of Earl and Salsbury, in the county of Lancaster, shall form a separate election district, bounded as follows: to wit, Beginning at Chester county line

at James M'Calmont's mill; from thence to William Gault's land where Henry Gable lives; thence to Matthew Henderson's land where Henry Orledy lives, in the township of Salsbury; from thence to the Presbyterian meeting-house (called the run) in Earl township; thence to the road which leads from Churchtown to New Holland, where the road from Christian Weaver's mill intersects the same; thence along the said road to the said Christian Weaver's mill; thence between the lands of George Kinser and Martin Overholser, to the Brecknock township line; thence along the line dividing said Brecknock and Caernarvon townships to Berks county line; including in the district, all the within recited places which said township of Caernarvon, and part of the township of Earl and Salsbury above bounded, together with the places mentioned in the county of Lancaster, shall be, and hereby are made a separate district, to be called the eleventh district, and the electors thereof shall hold their general elections at the house formerly occupied by Thomas Perkins as a tavern, now the property of Jesse Laverty, in Churchtown, within said district; any law to the contrary notwithstanding.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the electors of the township of Mountjoy, being the third district in the county of Lancaster, shall hereafter hold their general elections at the house now occupied by Henry Mayer's, in the township and county aforesaid.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the electors of the fourth election district composed of Bald Eagle township, in Centre county, shall hold their elections at the house now occupied by John Fredericks, in said district.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That Greenfield township, in Bedford county, be, and the same is hereby erected into a separate election district, and the electors thereof shall hold their general elections at the house now occupied by Ulrich Zeth, in said township.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the original boundary of M'Kean township, in the county of Erie, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by Alexander Hamilton in said district.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the part of the district known by the name of M'Dowel's district which lies within the provisional county of Warren, be, and the same is hereby annexed to North Irwin election district in the county of Venango, and the electors residing within the said part of M'Dowel's district, shall vote at the place appointed by law for holding the general elections in North Irwin election district.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That Venango township, in the county of Crawford, is hereby erected into an election district, and the electors thereof shall hold their elections at the house now occupied by Philip Straw, in said township.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That Sadsbury and West-Caln townships, in the county of Chester, be, and hereby are erected into a separate election district, to be called the tenth district, and the electors thereof shall hold their general elections at the house of John Sloan, now occupied by John Jones, innkeeper, in the township of Sadsbury aforesaid. And the third section of the act, entitled, "An act erecting certain election districts, and making alterations in other districts in certain counties within this commonwealth," passed the third day of April, one thousand eight hundred and four,⁽¹⁾ be and the same is hereby repealed.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That all that part of Pittstown election district, in the county of Luzerne, within the following boundaries; to wit, Beginning on the bank of the Susquehanna river, where the south line of said election district

crosses said river; thence north by the same river to the mouth of Fallingspring creek; from thence north ten degrees east, to the north line of said election district, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by John Harding; any law to the contrary notwithstanding.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the following described part of the county of Lycoming shall be a separate election district; to wit, Beginning at the north-east corner of the township of Burlington; thence south on the east line of said township to the north line of the county of Luzerne; thence west on said line to the east line of the county of Tioga; thence northerly on said line to a point due west from the north-west corner of the township of Ulster; thence east seven miles; thence south to the north line of the township of Burlington; thence east on said line to the place of beginning; to be called Burlington district, and the electors thereof shall hold their general elections at the house now occupied by Nathaniel Alter, in Burlington aforesaid.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That Dyberry township, and that part of Canaan township north of Middle Creek, now belonging to the third election district, in Wayne county, be erected into a separate election district, and the electors thereof shall hold their general elections at the court house at Bethany, in said county.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the electors of the Georgetown election district, in Beaver county, shall hereafter hold their general elections at the house now occupied by William Kerneghey, in said town.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the electors in Antrim township, in the county of Franklin, shall hold their general elections at the house of

John Beshore, in the borough of Greencastle; any law or usage to the contrary notwithstanding.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the township of Fairfield in the county of Westmoreland, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by William Ramsay, at the place known by the name of Palmer's Fort, in said township.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the township of Donegal, in the county of Westmoreland, shall be a separate election district, and the electors thereof shall hold their general elections at the house now occupied by Major John Ambrose, in said township.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That Conemaugh township, in the county of Somerset, shall be a separate election district, and the electors thereof shall hold their elections at the house now occupied by John Forrey, in the township aforesaid.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the townships of Coolspring, Delaware, Lackawanick, Springfield and Mercer, in the county of Mercer, shall be an election district, and the electors thereof shall hold their general elections at the court house in the town of Mercer.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That the township of Sandy lake, in the county of Mercer, shall be an election district, and the electors thereof shall hold their general elections at the house now occupied by Adam Hill, in said township.

Section XXVI. (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That the township of Wolf creek, in the county of Mercer, shall be an election district, and the electors thereof shall hold their general elections at the house now occupied by Daniel M'Kinley, in said township.

Section XXVII. (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That the township of Slippery-rock, in the county of Mercer, shall be an election district, and the electors thereof shall hold their general elections at the house now occupied by Joseph Campbell, in said township.

Section XXVIII. (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That so much of any act or acts as is or are by this act altered, be, and the same is hereby repealed.

Approved April 4, 1805. Recorded in L. B. No. 10, 184.

Note (1). Chapter 2519. Supra, this volume, p. 867.

CHAPTER MMDCXII.

A SUPPLEMENT TO THE ACT, ENTITLED, "AN ACT FOR EXTENDING THE BENEFITS EXPERIENCED FROM THE INSTITUTION OF THE PENNSYLVANIA HOSPITAL." (1).

Whereas the managers of the Pennsylvania hospital have represented to the legislature, that, in pursuance of the provisions of the act⁽¹⁾ to which this is a supplement, they have recovered and received the sum of twenty-six thousand six hundred and sixty-six dollars and sixty-seven cents, granted by the legislature, and faithfully applied the same, agreeably to the directions of the said act; and whereas the said managers have requested to be discharged from the other duties assigned them by the said act: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That whenever and as soon as the managers of the Pennsylvania hospital shall transfer, assign and deliver over to the state treasurer all the bonds, mortgages and other securities now in their possession, which were transferred and assigned to them in pursuance of the act, entitled, "An act for extending the benefits experienced

from the institution of the Pennsylvania hospital;"⁽¹⁾ and shall give to the said treasurer all the information which they possess concerning the premises, all the trusts and duties assigned them by the said act shall cease and determine, and the said treasurer is hereby authorized and directed to collect the balances due upon such bonds, mortgages and other securities so transferred and assigned to him as aforesaid, for the use of the commonwealth, and for that purpose shall have, use and enjoy all the powers and authorities granted or intended to be granted to the said managers, by the act⁽¹⁾ to which this is a supplement, and subject to the limitations, provisions and restrictions contained in the second section of said act; any law to the contrary in any wise notwithstanding.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 189.
Note (1). Chapter 1693; 14 Statutes at Large, p. 435.

CHAPTER MMDCXIII.

AN ACT AUTHORIZING THE GOVERNOR TO SUBSCRIBE FOR A CERTAIN NUMBER OF COPIES OF A DIGEST OF THE LAWS OF THIS COMMONWEALTH IN THE GERMAN LANGUAGE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the governor is hereby authorized and required to subscribe, on behalf of this commonwealth, for one thousand copies of the laws as published by Collinson Read, in his Digest of the Laws of this Commonwealth (except such law or laws, or such parts of any law or laws as have been repealed) with all such public laws as have been passed since the publication aforesaid, together with the constitution of the United States and of this state, to be translated, digested and published in the German language by John Ritter and Charles Kessler, of the borough of Reading: Provided, that the price thereof shall not exceed twenty-seven dollars per sheet, containing one thousand m's in each page,

in octavo size and form, and to be printed on medium paper, No. 2; to be delivered into the secretary's office: And provided also, that it shall satisfactorily appear to the governor, by the certificate of two or more persons skilled in the English and German languages, to be by him appointed to examine the same, that the said translation and digest be faithfully and correctly executed; and to be paid for on warrants drawn on the treasurer of the commonwealth.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 189.

CHAPTER MMDCXIV.

A SUPPLEMENT TO THE ACT, ENTITLED, "AN ACT TO RAISE AND COLLECT COUNTY RATES AND LEVIES." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the commissioners of the respective counties of this commonwealth shall, at every triennial assessment, call to their aid the assessors of the respective wards, districts and townships, and with them settle and adjust the relative value of the aggregate property of the several wards, districts and townships, (as nearly as may be) made taxable by the act, entitled "An act to raise and collect county rates and levies,"⁽¹⁾ and the quotas of the county taxes shall be apportioned among the several wards, districts and townships agreeably to such valuation.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the auditors hereafter appointed to settle the accounts of the several counties of this commonwealth, shall be severally entitled to receive one dollar and thirty-three cents for every day they are so employed at that business, which shall be paid them on orders to be drawn by the commissioners of the respective counties on their treasurer.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That so much of the act⁽¹⁾ to which this is a supplement, as is by this act altered and supplied, shall be so far and no further repealed and made void.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 190.

Note (1). Chapter 2095; 16 Statutes at Large, p. 375.

CHAPTER MMDCXV.

AN ACT MAKING AN APPROPRIATION FOR THE BUILDING OF A BRIDGE IN SOMERSET COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That there is appropriated a sum of four hundred dollars out of the arrearages of state taxes due from the county of Bedford, for the purpose of erecting a bridge over Youghiogeny river, in Somerset county on the road leading from Cumberland, on the Potomac, to Connelville; which sum shall be paid by the treasurer of Bedford county, on orders to be drawn on him by the commissioners of Somerset county, countersigned by the commissioners of Bedford county, and when paid, the treasurer shall have credit for the same sum in settlement of his accounts.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 191.

CHAPTER MMDCXVI.

AN ACT AUTHORIZING THE HOLDING OF ADDITIONAL COURTS IN BERKS COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the president and associate judges of the court of common pleas of Berks county, are

hereby authorized and directed to hold adjourned courts of common pleas in the said county, for trying and arguing civil causes, when the business therein depending shall render it necessary; to continue each one week; to wit, to commence on the first Monday in March; on the third Monday in May, and on the second Monday in December, annually.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue in force until the first day of April, one thousand eight hundred and nine.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 191.

CHAPTER MMDCXVII.

AN ACT TO ENCOURAGE THE PATENTING OF LANDS, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the receiver general of this commonwealth, be, and he is hereby authorized to settle the accounts of all persons who may apply within three years from and after the passing of this act, who are indebted to this commonwealth for the purchase money of lands, and the interest due thereon, and who have not received patents for their lands; and on the payment of the usual fees of office, such persons shall receive their patents upon executing a mortgage to the governor for the use of the commonwealth, to secure the payment of the aggregate of the arrears of purchase money and interest due, in ten equal annual instalments, the interest of the whole aggregate sum remaining due to be paid yearly, and all mortgages, which shall be executed in pursuance of this act, shall be filed in the office of the secretary of the land office, and shall be available in law without the recording thereof; and it shall be the duty of the secretary of the land office, before he shall deliver any such patent to be enrolled, to endorse thereon that a mortgage is executed

by the patentee to the governor for the use of the commonwealth, to secure the payment of arrearages, and also endorse thereon the amount thereof.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the state treasurer shall on the first Monday of January, annually, exhibit to the governor a statement of the amount of money then in the treasury, received from the receiver general for the purchase money and interest, which the said receiver general has paid into the treasury for lands; and the governor is hereby required to apply one half of the money aforesaid to the purchase stock of the United States, or of any of the banks, for the use of the commonwealth; the said stock to be considered inviolable, and the interest thereof to be applied for the support of government; and such part of the principal of the stock of the United States, which may be purchased as aforesaid, as may, from time to time, be redeemed, shall be applied by the governor to the renewal of the said stock, or vested in some other stock; and the secretary of the commonwealth is hereby required to make an annual report to the legislature of what proceedings have been had under this act: Provided however, that the provisions contained in this section shall in no wise interfere with or impede the operation of the third section of the act, entitled, "An act for offering compensation to the Pennsylvania claimants, of certain lands within the seventeen townships in the county of Luzerne, and for other purposes therein mentioned," passed the fourth of April, one thousand seven hundred and ninety-nine.⁽¹⁾

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the act entitled, "An act, to extend the time for patenting lands and for other purposes," passed the twenty-sixth day of January, one thousand eight hundred and two,⁽²⁾ and all matters and things therein contained, shall be and is hereby further extended for three years from and after the passing of this act.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 191.

Note (1). Chapter 2053; 16 Statutes at Large, p. 245.

Note (2). Chapter 2226. *Supra*, this volume, p. 44.

CHAPTER MMDCXVIII.

AN ACT CONCERNING THE REPUTED MANOR OF SPRINGETSBURY, IN
THE COUNTY OF YORK.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be, and hereby is authorized and required to appoint three commissioners, whose duty it shall be diligently to inquire into the various terms and conditions upon which persons, residing within what is called the Manor of Springetsbury, in the county of York severally hold their lands; and that the said commissioners be authorized to make proposals to and receive offers of compromise from the agents of the proprietaries, as to them may appear just and equitable, as the various circumstances of the case, and the claim of the individuals, or the commonwealth, may appear to require, and make report of all such proceeding had thereon to the governor, who shall lay the same before the next succeeding legislature; and the commissioners shall have and receive for each day, while they are necessarily employed in the said service, each the sum of three dollars; to be paid out of any unappropriated monies in the treasury of this commonwealth, on warrants drawn by the governor as in other cases.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That no proposals or overtures made by the commissioners on the part of this commonwealth, shall be construed or understood as a recognition of the title to the late proprietaries to the said lands, or impair the claim of the state to the same, should it so happen that the terms thus agreed on should not hereafter be confirmed by an act of the legislature.

CHAPTER MMDCXIX.

AN ACT FOR THE MORE EFFECTUAL AND SPEEDY RECOVERY OF THE DEBT DUE FROM THE LATE JOHN NICHOLSON TO THIS COMMONWEALTH.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be and he is hereby authorized and empowered, on the part of this commonwealth to contract with Samuel Nicholson and Samuel Blythe, for the full and complete payment and satisfaction of all the liens that this commonwealth has on the estate of the late John Nicholson; and the governor is hereby also empowered to take security from the said Nicholson and Blythe in the amount of three hundred thousand dollars, which security shall remain till the contract is performed and the state is indemnified for the whole amount of the debt due from the estate of the late John Nicholson.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the contract to be entered into by the governor, on the part of this commonwealth, and the said Samuel Nicholson and Samuel Blythe, for the payment of the liens due to this commonwealth from the estate of the late John Nicholson, shall be as follows: to wit, That the whole be paid in ten equal payments, with interest; the first payment to be made on or before the first day of May, one thousand eight hundred and six; the second on the first day of May, one thousand eight hundred and seven; and so on each subsequent payment, to be paid yearly and every year till the whole amount of the principal and interest, and all the monies already expended in the prosecution of the said debt, and all the fees to the different officers of the state for authenticated records, drafts and other papers hereafter directed to be given, and the taxes hereafter mentioned to be paid, be fully satisfied and paid off.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the taxes now due and owing on the lands of the late John Nicholson, be, and the same is hereby directed to be paid off by the state; which money, so paid for taxes as aforesaid, shall be refunded to the state by Samuel Nicholson and Samuel Blythe, in two equal payments, with interest from the first of May next; for the payment of which, as well as for the faithful performance of all the contracts in this act mentioned, the said Nicholson and Blythe shall give security, as mentioned in the first section of this act.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That as soon as the said Samuel Nicholson and Samuel Blythe do make and execute the contract and give the security in this act mentioned, (which security shall be given in ninety days from the passing of this act) then the governor of this commonwealth shall transfer all the liens of this state on the property of the late John Nicholson, as they now exist, to the said Nicholson and Blythe, their heirs and assigns, forever, as tenants in common.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the better to enable the said Samuel Nicholson and Samuel Blythe to perform the duties and fulfill the terms of this contract, all the officers of the land-office, and all the other officers of this state, be, and they are hereby directed to furnish Samuel Nicholson and Samuel Blythe, or either of them, (after they shall have entered into the contract, and given the security before mentioned) with authenticated copies of records, draughts and other papers that they may think necessary, to ascertain the lands of the late John Nicholson, lying in the different counties, and that all fees for the same shall be charged to the said Samuel Nicholson and Samuel Blythe, and be paid by them in the same manner as the debt in the different yearly payments, and secured as mentioned in the first section of this act; and that every person and persons having in his, her or their possession, any books, documents or papers which belonged to the said John Nicholson at the time of his decease, shall, upon de-

mand, deliver the same to the said Samuel Nicholson and Samuel Blythe, or either of them, taking a receipt or receipts for the same.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That should the aforesaid Samuel Nicholson and Samuel Blythe, neglect or refuse to enter into said contract, and give the security aforesaid, within the time expressed in the fourth section of this act, then it shall and may be lawful for the governor to contract with any other person or persons, or bodies corporate on the principles aforesaid, and such person or persons, or bodies corporate, so contracting, shall be entitled to all the privileges and immunities, and subject to all the conditions and limitations that the said Samuel Nicholson and Samuel Blythe would have been, had they entered into the contract aforesaid.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 193.

CHAPTER MMDCXX.

A SUPPLEMENT TO AN ACT, ENTITLED, "AN ACT TO EMPOWER THE TRUSTEES OF CRAWFORD COUNTY TO ERECT A SUITABLE BUILDING FOR A SEMINARY OF LEARNING IN THE TOWN OF MEADVILLE."
(¹).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That James Burchfield, James Herrington, John Brooks, Henry Reichard, William Moore, John Patterson, John Limber and Henry Hurst, be and they are hereby constituted and appointed trustees, for a public seminary of learning, which is or may be erected in the town of Meadville, in the county of Crawford, in addition to and with those trustees heretofore appointed, under the act to which this is a supplement, passed April the second, one thousand eight hundred and two;⁽¹⁾ and the trustees appointed under the before recited act, and those in this supplement named, shall have like powers in all matters and things concerning

and relative to the said seminary, and any nine trustees of the whole number shall constitute a quorum sufficient to do business; and it shall be the duty of the trustees to appoint a treasurer, and take such sureties of him as they may deem sufficient, and in the keeping of the treasurer so appointed, to deposit any such sum or sums as now is, or may be due or hereafter shall become due, either by subscription or by gift, grant, donation or otherwise, and there remain till such time as the trustees shall otherwise dispose of the same, agreeably to the law⁽¹⁾ to which this is a supplement; and it shall be the duty of the treasurer to keep just and fair accounts of all the monies which he shall receive and pay for, or on account of the said seminary.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the second section of the act⁽¹⁾ to which this is a supplement be, and the same is repealed and made void; any law or part of a law to the contrary notwithstanding.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 196.
Note (1). Chapter 2289. Supra this volume, p. 139.

CHAPTER MMDCXXI.

A SUPPLEMENT TO THE ACT, ENTITLED, "AN ACT DECLARING TUSCARORA CREEK A PUBLIC HIGHWAY." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That all that part of Tuscarora creek, situate between the mouth thereof and the forks, near to Morrow's mill, which has not been declared a public highway, by the act to which this is a supplement, passed the twenty-sixth day of February, one thousand seven hundred and ninety-six,⁽¹⁾ be, and the same is hereby declared a public highway, for the passage of boats and rafts; and it shall and may be lawful for persons desirous of using the navigation of

said creek to remove all natural and artificial obstructions, and to erect such slopes and locks at the mill dams now built as may be necessary for the passage of boats and rafts: Provided, such slopes and locks shall be so constructed as not to injure the work of said dams.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 196.

Note (*). Chapter 1874; 15 Statutes at Large, p. 390.

CHAPTER MMDCXXII.

AN ACT AUTHORIZING THE GOVERNOR TO APPOINT COMMISSIONERS FOR THE PURPOSE OF LAYING OUT A STATE ROAD FROM BLAIR'S GAP, IN HUNTINGDON COUNTY, TO THE WESTERN BOUNDARY OF THIS STATE, AT OR NEAR THE PLACE WHERE SAID BOUNDARY LINE CROSSES THE MAHONING BRANCH OF BIG BEAVER CREEK, IN MERCER COUNTY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the governor be, and he is hereby directed to appoint three commissioners, (one at least of whom shall be a practical surveyor) to lay out and mark a state road from Blair's Gap, in the county of Huntingdon, the nearest and best route through the town of Ebensburg, in the county of Cambria, the town of Indiana, in the county of Indiana, the town of Kittanning, in the county of Armstrong, and the town of Butler, in the county of Butler; thence to the western boundary line of this State, at or near the place where the Mahoning branch of Big Beaver creek crosses the said western boundary line; and the said commissioners shall proceed to perform said service at such time as the governor shall direct, and having performed the same, shall cause a draught of said road to be deposited in the office of the secretary of this commonwealth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That each of the said commissioners shall receive three dollars for each day they shall be neces-

sarily employed in the service aforesaid, together with reasonable allowance for the hands necessarily employed in chaining or marking the lines of the aforesaid road; to be paid by warrants drawn by the governor on the treasurer of this commonwealth.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 196.

CHAPTER MMDCXXIII.

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSES OF GOVERNMENT AND PAYMENT OF CERTAIN DEBTS, AND FOR OTHER PURPOSES.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That for the payment of the following debts and expenses there is hereby appropriated out of the funds for the support of government for the redemption of certificates issued under the act, entitled, "An act to provide for the settlement of the public accounts, and for other purposes therein mentioned," passed the fourth day of April, one thousand seven hundred and ninety-two,⁽¹⁾ the sum of six hundred and thirty-seven dollars and sixty cents; for clerk-hire, printing, stationary, attendants, expresses, fuel and other contingent expenses in the executive department, for one year, from the first day of April in the present year, the sum of three thousand dollars; for the completion of the brass ordnance purchased by the governor, for the use of the militia, the sum of six thousand dollars; for the payment of an additional clerk or clerks in the following offices (in addition to the standing appropriation:) that is to say, in the office of the register general, six hundred dollars; in the office of the surveyor general, six hundred dollars; in the office of the secretary of the land-office, six hundred dollars, for one year from the first day of April, in the present year; and the sum of sixteen thousand dollars, including the balance of appropriation unexpended, is

hereby appropriated to complete the redemption of new loan certificates.

Section II. (Section II, P. L.) And whereas this commonwealth by an act, passed the twenty-seventh day of March, one thousand seven hundred and eighty-nine,⁽²⁾ and by an act passed the fourth day of April, one thousand eight hundred and three,⁽³⁾ as well as by the first section of this act, hath amply provided for the redemption of the certificates commonly called new loans, issued under an act passed the first day of March, one thousand seven hundred and eighty-six,⁽⁴⁾ and hath provided by an act passed the fourth day of April, one thousand seven hundred and ninety-six,⁽⁵⁾ as well as by sundry preceding acts, funds fully adequate to the redemption of all the funded debt certificates, depreciation certificates, and the six per cent. and three per cent. purparts issued under its authority, and ample time has already been allowed to the holders for redemption, it becomes the duty of the legislature to provide by law, for closing the accounts of the commonwealth in respect of such certificates: Therefore,

Be it further enacted by the authority aforesaid, That all such of the above-mentioned and described certificates now outstanding, as shall not be presented to and deposited with the register general on or before the second Tuesday in January, one thousand eight hundred and seven, shall not afterwards be received by him nor redeemed by the state, but are hereby declared to be forever irredeemable; any law or laws of this state, now in force, to the contrary in any wise notwithstanding.

Section III. (Section III, P. L.) And whereas sufficient time hath been allowed and adequate provision heretofore made, for redemption of the bills of credit of this commonwealth, issued under authority of the acts of one thousand seven hundred and eighty-one,⁽⁶⁾ and one thousand seven hundred and eighty-five:⁽⁷⁾ Therefore,

Be it further enacted by the authority aforesaid, That such of the said bills of credit as are now outstanding, as shall not be paid into the state treasury, under the laws heretofore

enacted, on or before the second Tuesday of January next, shall not thenceforth be received by the state treasurer, but shall forever be irredeemable; any law or laws now in force, to the contrary notwithstanding.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That all warrants to be drawn on the treasury by the governor, for the sums of money appropriated by this act, shall be under the same regulations and restrictions as are directed by law in other cases.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the register general be, and he is hereby directed to furnish, annually, to the legislature, not only the amount of unfurnished certificates issued within the year, and the names of the persons to whom they were granted, but also upon what account they were issued, and that the secretary of the land-office, surveyor general, receiver general, comptroller general, register general and state treasurer, respectively exhibit to the legislature, annually, a statement of the manner in which any extra appropriations, which may be made for their respective departments, have been applied, and also a detailed statement of the contingent expenses of those departments.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the comptroller general is hereby required as soon as may be, to obtain from the several county commissioners of the respective counties, a transcript of all such taxes as are due from the estate of the late John Nicholson, subject to the lien of this commonwealth, and the comptroller general, is hereby directed to pay the amount of the said taxes, so ascertained as aforesaid, and the sum of ten thousand dollars be and the same is hereby appropriated to pay the taxes aforesaid, and the comptroller general is further directed forthwith to communicate to the commissioners of the respective counties, the provisions contained in this section.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That so much of the act

passed the sixteenth day of February, one thousand eight hundred and one,⁽⁸⁾ entitled, "An act supplementary to an act, entitled, 'An act, to prevent intrusions on lands within the counties of Northampton, Northumberland and Luzerne,'" passed the eleventh day of April, one thousand seven hundred and ninety-five,⁽⁹⁾ as authorizes the appointment of an agent, be, and the same is hereby repealed.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 197.

Note (1). Chapter 1627; 14 Statutes at Large, p. 243.

Note (2). Chapter 1415; 13 Statutes at Large, p. 263.

Note (3). Chapter 2395. *Supra*, this volume, p. 490.

Note (4). Chapter 1202; 12 Statutes at Large, p. 158.

Note (5). Chapter 1902; 15 Statutes at Large, p. 452.

Note (6). Chapter 939; 10 Statutes at Large, p. 301.

Note (7). Chapter 1180; 12 Statutes at Large, p. 62.

Note (8). Chapter 2182; 16 Statutes at Large, p. 542.

Note (9). Chapter 1826; 15 Statutes at Large, p. 274.

CAPTER MMDCCXXIV.

A FURTHER SUPPLEMENT TO THE ACT, ENTITLED, "AN ACT FOR OFFERING COMPENSATION TO THE PENNSYLVANIA CLAIMANTS OF CERTAIN LANDS WITHIN THE SEVENTEEN TOWNSHIPS IN THE COUNTY OF LUZERNE, AND FOR OTHER PURPOSES THEREIN MENTIONED." (1).

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passing of this act, such Connecticut settlers of the fifteen townships in the county of Luzerne, claiming lands under the act of the fourth of April, one thousand seven hundred and ninety-nine, entitled, "An act for offering compensation to the Pennsylvania claimants of certain lands in the seventeen townships in the county of Luzerne, and for other purposes therein mentioned,"⁽¹⁾ as are, or may be entitled to receive patents for the same, who may desire such lands to remain as a security for the payment of the purchase money to the commonwealth, without incurring the expense of mortgaging, he, she

or they requesting this to be done, by a writing, under their hands and seals, transmitted to the secretary of the land office, the said secretary thereupon shall issue to the said Connecticut settlers, patent or patents for his, her or their respective lands, and on the same patent or patents certify the amount of the purchase money for the land therein described, and the periods in which the same shall become due, which sum or sums so certified shall be and remain a lien on said land in the nature of a mortgage, until the money shall have been paid; any law to the contrary in any wise notwithstanding.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That the certificates in the aforesaid patent or patents of the purchase money, for the land in such patent or patents mentioned, as also the description of boundaries, shall be entered on record by the recorder of the proper county in a book by him for that purpose to be procured, at the usual fees for the like number of words, which when done shall be constructive notice to all who may be concerned: Provided nevertheless, that should not the record so as aforesaid directed, be made within six months from the date of such patent or patents, the same patent or patents shall be void and of no validity or effect whatever.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That such record as aforesaid, in the proper county, shall be as good evidence of the purchase money due to the commonwealth, and upon which to bring a suit for the recovery of the same, as if it had been secured by mortgage in proper form and recorded at large.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the recorder of deeds in and for Luzerne county, to receive certain books and documents commonly called the "Westmoreland records" and keep the same in his office; and on application and payment of the usual fees, shall make out and deliver copies therefrom, under seal of office, and when and so often

as he thereto shall be requested, which copies so made out and delivered shall be as good evidence in law as the original might or could be.

Approved April 4, 1805. Recorded in L. B. No. 10, p. 199.
Note (1). Chapter 2053; 16 Statutes at Large, p. 245.

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